

भारत का राजपत्र **The Gazette of India**

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

नं० 1] नई दिल्ली, शनिवार, जनवरी 4, 1969/पौष 14, 1890

NO 1] NEW DELHI, SATURDAY, JANUARY 4, 1969/PAUSA 14, 1890

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

भाग II—खण्ड 3—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ क्षेत्र प्रशासन को छोड़ कर) केन्द्रीय प्राधिकरणों द्वारा जारी किए गए विधिक आदेश और अधिसूचनाएं।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

ELECTION COMMISSION OF INDIA

New Delhi, the 6th December 1968

S.O. 1.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950, the Election Commission, in consultation with the Government of Rajasthan, hereby nominates Shri R. K. Saxena, Director of Elections and Ex-officio, Secretary to the Government in Election, Local Self Government, Social Welfare and Town Planning Departments, as the Chief Electoral Officer for the States of Rajasthan from the afternoon of the 26th October, 1968.

[No. 154/12/68.]

New Delhi, the 26th December, 1968

S.O. 2.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the Order, pronounced on the 21st March, 1968, by the High Court of Delhi, New Delhi, in Election Petition No. . of 1967.

IN THE HIGH COURT OF DELHI

E.P. No. 3/67

E.P. 3/67

Shri Brij Mohan son of Shri Roshan Lal resident of
31-Netaji Subhash Marg, Delhi.—*Petitioner.*

Versus

1. Shri Hardayal Devgun son of Shri Mahesh Dass,
Resident of 34, Jor Bagh, New Delhi.
2. Shri V. N. Kaushik son of Shri J. R. Kaushik 118,
Than Singh Nagar, Karol Bagh, New Delhi.—*Respondents.*

Petition under Section 81 of the Representation of People Act, 1951 praying that the election of Respondent No. 1 to Lok Sabha from the East Delhi Parliamentary Constituency be declared to be void and the petitioner be declared to have been duly elected to the Lok Sabha from that constituency.

This the 21st March, 1968.

PRESENT :

HON'BLE MR. JUSTICE S. N. ANDLEY.

For the Petitioner: M/s. Ramesh Chandra & Vijay Kishan Advocates.

For the Respondent: M/s. L. C. Vatsa, R. P. Bansal and V. P. Joshi, Advocates.

JUDGMENT

The election of Hardayal Devgun, respondent No. 1 hereinafter referred to as "the respondent" to the Lok Sabha from the East Delhi Parliamentary Constituency in the elections held in February, 1967, is challenged by this petition which has been filed by Shri Brij Mohan, one of the candidates. The third party to the petition is V. N. Kaushik, respondent No. 2, who also lost in the elections.

The petitioner contested the election as a Congress candidate; the respondent as a Jan Sangh candidate and V. N. Kaushik, respondent No. 2 as a Republican Party candidate.

The poll was held on February 19, 1967 and the result of the election was declared on February 22, 1967. The respondent secured 5616 votes over and above the petitioner and a much larger number of votes over V. N. Kaushik. The result of polling is reflected by the following particulars:—

Total votes polled	178484
Votes secured by the respondent	83261
Votes secured by the petitioner	77445
Votes secured by V. N. Kaushik	9855
Invalid votes	7723
Tender votes	106

At the stage of arguments only two grounds were urged by the petitioner for declaring the election of the respondent void, namely, that the result of the election, in so far as it concerned the petitioner, had been materially affected (1) by the improper acceptance of the nomination paper of V. N. Kaushik, respondent No. 2 and (2) by the improper reception, refusal or rejection, of votes or by the non-compliance with the provisions of the Constitution or of the Representation of the People Act, 1951, hereinafter referred to as "the Act", or of any rules or orders made under the Act. These grounds are grounds contemplated by section 100(1)(d)(i), (iii) and (iv) of the Act.

Initially, in the petition filed, the grounds covered by section 100(1)(d)(i) confined itself to the allegation that there was no person by the name of V. N. Kaushik; that the person who represented himself to be V. N. Kaushik was actually Mohammad

Saleem Kaushik; that the name of Mohammad Saleem Kaushik did not appear in the voters' list and that, therefore, the nomination paper of V. N. Kaushik, respondent No. 2 had been improperly accepted.

Upon the petition as originally filed and upon the written statements filed by the respondent and by V. N. Kaushik, Khanna J. who was then dealing with this matter framed the following preliminary Issues:—

1. Whether the copy of the petition and the annexures supplied to respondent No. 1 were not attested by the petitioner under his own signatures? If so, what is the effect thereof?
2. Whether the petitioner has not deposited Rs. 2,000/- as security under section 117 of the Representation of the People Act?
(Onus is placed upon respondent No. 1 in view of the endorsement of the Treasurer of this Court on the petition about the receipt of Rs. 2,000/-.)
3. Whether this petition was presented personally by the petitioner? If not, what is the effect thereof?
4. Whether the annexures to the petition have been duly verified? If not, what is the effect thereof?
5. Whether the petition does not contain a concise statement of the material facts on which the petitioner relies? If so, what is the effect thereof?

He disposed of these preliminary issues by his order dated October 17, 1967. He decided Issues Nos. 1 and 2 against the respondent and Issue No. 4 in favour of the petitioner. As to Issue No. 4, he called upon the petitioner "to remove the lacuna in verification by adding a supplementary verification indicating the date and place of the original verification and the reason for the earlier omission." He left Issue No. 5 decided and directed that issue No. 5 to be taken up when case proceeds on merits and a prayer is made for scrutiny and recount of ballot papers."

Then, on October 30, 1967, the petitioner made an application (OM. 294 of 1968) praying for amendment of the petition by the addition of a further allegation that the name of the proposer given on the nomination of V. N. Kaushik, respondent No. 2, was Sher Singh and that no person of the name of Sher Singh as mentioned in the electoral roll resides or ever resided at the address given in the Electoral Roll and that, therefore, this may be an additional ground to the challenge made to the nomination paper of V. N. Kaushik, respondent No. 2. This application was disposed of by order dated November, 8, 1967 of Om Parkash J. and the amendment sought for was allowed. The amended petition was then filed on September 11, 1967 and written statement and replication were filed on November 15, 1967 and November 20, 1967, respectively.

Thereafter, Om Parkash J. on November 20, 1967 framed 15 Issues upon the pleadings of the parties.

Issue Nos. 7, 8 and 9 are as follows:—

- "7. Whether the total number of ballot papers, taken out of ballot boxes relating to the Metropolitan Council, Municipal Corporation and the Parliamentary Constituency were found to be different, and if so what is its effect and whether this has materially affected the result of the election? O. P. Petitioner 8, Whether the total number of tender votes for Parliamentary Constituency, Metropolitan Council and Municipal Corporation was respectively 106, 79 and 37 and if so, what is its effect and whether this has materially affected the result of the election? O. P. Petitioner. 9(a) Whether 700 persons were recorded as voters at two different places and whether they had cast their votes at both the places and this had been done at the instance of respondent No. 1 and his agents? O. P. Petitioner (b) If Issue No. 9(a) be proved in favour of the petitioner, whether the result of the election has been materially affected by the allegation contained therein? O. P. Petitioner."

It is not necessary to set out the pleadings of the parties on these Issues because they were given up by the petitioner at the time of arguments.

Issue No. 1 is in these terms:—

- "1(a) How many total votes were polled in the last General Elections held in February, 1967 in the East Delhi Parliamentary Constituency? (b) How many votes were secured by respondent No. 1, respondent No. 2 and the petitioner? (c) How many votes were declared invalid and how many votes were tender votes?

The figures of votes with respect to the several parts of this Issue which were given in paragraph 2 of the petition and which have been quoted above were accepted by the parties and nothing further need be said about this Issue.

On December 29, 1967, the respondent made an application (OM. 52 of 1968) under order 14, rules 2 and 5(2) of the Code of Civil Procedure praying that Issues Nos. 10 to 14 be determined first before evidence in the case was recorded; that Issues Nos. 2 to 5 and 9 be struck off and the remaining Issues be declared to have been unnecessary as any determination of those Issues was not likely to entitle the petitioner to any relief whatsoever. Reply to this application was filed by the petitioner on January 11, 1968 and the prayer made by the respondent was objected to. This application was dismissed by me by my order dated January 12, 1968 on the ground that Issue No. 10 on merits was the same as Issue No. 5 of the Preliminary Issues and the determination of the later had been left for decision alongwith the Issues on merits. I had also held that the other Issues in respect of which this application had been made were connected with Issue No. 10 of the Issue on merits.

Thereafter another application, application No. 245 of 1968, was filed by the petitioner praying that he be allowed to inspect the rejected ballot papers and the ballot papers recording votes counted in favour of the respondent. The allegations on which this application was based were substantially the same as were made in paragraphs 3, 4 and 5 of the petition, which will be set out later when the Issues arising upon these allegations are dealt with.

I will first deal with Issue No. 6 which is in these terms :—

“6 (a) whether respondent No. 2, who had contested the election under the name of Shri V. N. Kaushik was actually Shri Mohd. Saleem Kaushik?

O. P. Petitioner.

“(b) Whether the proposer, Shri Sher Singh, of the nomination paper of Shri V. N. Kaushik, was a fictitious person and was not an elector?

O. P. Petitioner.

(c) Whether the nomination, paper of Shri V. N. Kaushik had been improperly accepted for the reasons stated in Issues 6(a) and 6(b)?

O. P. Petitioner.

(d) Whether the improper acceptance of the nomination papers of Shri V. N. Kaushik has materially affected the result of the election?

O. P. Petitioner.

(e) Whether the petitioner is stopped from raising the plea about the improper acceptance of the nomination papers of Shri V. N. Kaushik as that plea had not been raised before the Returning Officer?

O. P. Respondent No. 1.

The allegations in the petition which have given rise to this Issue are contained in paragraphs 6, 7 and 7A, which read:—

“6. The respondent No. 2 contested the election under the name of V. N. Kaushik. There is no person named V. N. Kaushik and the person who represented himself to be V. N. Kaushik is actually Mohd. Salim Kaushik.

7. The name of Mohd. Salim Kaushik does not appear in the voters list and he being not a voter in any Parliamentary Constituency was not qualified to seek and contest the election. His nomination was improperly accepted and this improper acceptance of his nomination has very materially affected the result of the election. All the votes secured by him would have been polled by the petitioner.

7(A). The name of the proposer given on the nomination paper of Shri V. N. Kaushik is Sher Singh mentioned at Serial No. 361 of the Electoral Roll No. O.9/6(E-20/6) in House No. 1442/2; Ram Nagar, Delhi-Shahdara. No person of the name Sher Singh son of Khazan as mentioned in the Electoral Roll resides or ever resided at the address given in the said Electoral Roll. The petitioner contends that no person by the name of Sher Singh son of Khazan as mentioned in the Electoral Roll exists or ever existed. The name of Respondent No. 2 having not been properly proposed, his nomination was improperly accepted and as already mentioned the said improper acceptance of his nomination has materially affected the result of the election.”

The reply of the respondent is contained in paragraphs 6, 7 and 7(A) of his written statement to the amended petition and these paragraphs say—

- "6. Averments made in paragraph 6 of the petition are denied. Shri V. N. Kaushik who is known by such name and who is entered as an elector in the electoral roll with the name of V. N. Kaushik filed the nomination papers with full particulars of his entry in the electoral roll. No person including the petitioner or his authorised representative made any objection to the validity or acceptance of nomination paper of Shri V. N. Kaushik and the Returning Officer after finding the nomination papers of respondent No. 2 to be in order and valid in all respects and after satisfying himself about its validity accepted the same. It does not now lie in the mouth of the petitioner to raise the objection contained in his election petition against the validity or acceptance of nomination paper of the respondent No. 2.
7. Averments made in paragraph 7 of the petition are denied. It is denied that Shri V. N. Kaushik was not voter eligible to such election to the Lok Sabha. It is denied that any nomination paper was improperly accepted. Neither any nomination paper was improperly accepted nor any alleged improper acceptance of any nomination paper was affected the election in question in any manner whatsoever. No particulars has been furnished by the petitioner as to how the result of election has been materially affected in so far as it concerns this respondent, the returned candidate. It is denied that any votes polled by respondent No. 2 would be polled by the petitioner. Because of the facts stated above in the written statement, the petitioner by his conduct is stopped from raising the plea of improper acceptance of nomination paper of Shri V. N. Kaushik.
- 7(A). Averments contained in paragraph 7(A) of amended election petition are denied. Allegations contained in this paragraph of the petition are an after thought of the petitioner. The petitioner is not entitled under law to raise the objections contained in paragraph 7(A) of the amended election petition, particularly when he or any of his representative or nominee did not raise this objection at the time of scrutiny of the nomination papers of the candidates at the election in question before the Returning Officer and when he did not allege these facts and raise the objection in his original election petition dated 6th April, 1967. The petitioner is stopped from raising the objection contained in paragraph 7(A) of the amended election petition. With due reference to the order of this Hon'ble Court dated 8th November, 1967 permitting the petitioner to add the averments contained in paragraph 7(A) of the amended election petition and subject to his contention that the order allowing the petitioner to make the amendment is beyond jurisdiction of this Hon'ble Court and the same is not proper under law, this respondent submits that the objection in question cannot be raised in Election petition and the decision of the Returning Officer is conclusive and final. Each and every allegation of fact contained in this paragraph of the petition is denied and the petitioner be put to strict proof thereof. This respondent submits that the Returning Officer accepted the nomination paper of all the candidates including Shri V. N. Kaushik after verifying the particulars of the candidates and their proposers with reference to the relevant entries in the electoral roll. The objection made by the petitioner is not entertainable. This is denied that no person of the name of Sher Singh son of Khazan resided at the address given in the electoral roll. This is also denied that no person by the name of Sher Singh son of Khazan did not exist. Nomination of Shri V. N. Kaushik was proposed by Sher Singh who was an elector or voter of the constituency in question at the material time of filing and scrutiny of the nomination paper. Nomination paper of respondent No. 2 was properly proposed and properly accepted. There was no improper acceptance of the nomination paper of Shri V. N. Kaushik for any reasons whatsoever. This is denied that the result of election has been materially acceptance of nomination paper. No particulars have been given by the petitioner as to how the result of the election in so far it concerns the returned candidate has been materially affected by the alleged improper acceptance of the nomination paper of respondent No. 2. In the absence of any particulars the allegation is vague and does not call for any enquiry by this Hon'ble Court."

In his replication, the petitioner has reiterated what was stated in the amended petition in this behalf.

V. N. Kaushik, respondent No. 2, has replied to these allegations in paragraphs 6, 7 and 7(A) of his written statement which read:—

"6. Para No. 6 of the petition as stated is not admitted. The answering respondent was a duly registered voter in accordance with law within the ambit of Karol Bagh Parliamentary Constituency of Delhi vide Serial No. 17, Volume No. 20 (Anand Parbat) in M.C.D. Ward No. XVII, in (Than Singh Nagar, at House No. 118), wherein the Respondent's name has been duly entered as V. N. Kaushik together with parentage, etc.

The answering Respondent is also popularly known as MAHATMA MOHAMMED SALEEM KAUSHIK and the same name was assumed in the year 1964 when the Respondent had embraced Islam and now the Respondent is being referred to by both the names.

7. Para No. 7 of the petition is incorrect, false and the same is therefore denied. The answering respondent was duly entitled in law to contest the Parliamentary seat when the nomination paper was also duly accepted by the Returning Officer in accordance with law. It is totally denied that the acceptance of the nomination paper of the respondent has in any way caused any material effect on the result of the election.

7A. Averments contained in paragraph 7A of the petition are denied. This is true that Shri Sher Singh who is a voter and entered as such at Serial No. 361 of the Electoral Roll No. O. 9/6 (ED-26/6) proposed the nomination of this respondent. The said proposer was a voter competent to propose the candidature of the answering respondent and he resided at the address given in the electoral roll. This is denied that no person of the name of Sher Singh exists or ever existed as alleged. Nomination of this respondent was properly proposed and accepted. It is denied that the nomination of the answering respondent was not properly proposed and was affecting the result of election by the alleged improper acceptance does not arise. It is also denied that the result of election has been effected materially in any manner whatsoever."

The nomination paper is Exhibit P.1. It is on a printed form in Form 2A of the Conduct of Election Rules, 1961, hereinafter referred to as "the Rules". It is signed in Hindi by V. N. Kaushik as the candidate and bears the signatures in Hindi of one Sher Singh as a proposer. The name and other particulars about the candidate and his proposer are entered in English. The name of the candidate is V. N. Kaushik son of Shri J. R. Kaushik and as to the name, etc., of the proposer, the nomination paper reads: "My name is Sher Singh and it is entered at S. No. 361 in para No. O.9/6 (ED-26/6) of the electoral roll for East Delhi, Parliamentary Constituency."

In order to succeed on this issue, the petitioner has to prove that the nomination paper of V. N. Kaushik, respondent No. 2, had been improperly accepted because there were no persons named V. N. Kaushik and Sher Singh whose names were entered in the electoral rolls and that by reason of such improper acceptance, the result of the election insofar as the petitioner is concerned has been materially affected. I will first take up the question as to the name of the candidate, that is, V. N. Kaushik, respondent No. 2.

By reason of the undisputed fact that no objections were raised by the petitioner or anybody else at the time of scrutiny to the acceptance of the nomination paper of V. N. Kaushik, respondent No. 2, it was first contended that this Court was precluded from going into that question. It was contended, as and by way of estoppel that the use of the word "improper" implied that there must be some order of the Returning Officer either upon objection or otherwise at the time of scrutiny of the nomination papers accepting the nomination paper and that if there is no such order, the acceptance of the nomination paper could not be said to be improper. In other words, it was contended that since the petitioner did not object to the nomination paper of V. N. Kaushik, respondent No. 2, at the time of scrutiny, he could not raise this objection at the time of the trial of the petition.

To meet this objection, the petitioner relies upon the decision of the Supreme Court reported in A.I.R. 1959 S.C. 422 — 17 E.L.R. 181 in re: *N. T. Veluswami Theyar V. G. Raja Nainar and others*. This case related to the alleged improper rejection of a nomination paper under clause (c) of sub-section (1) of section 100 of the Act. In this case, the nomination paper of one of the candidates Arunachalam was rejected by the Returning Officer at the time of scrutiny on the ground that he was holding an office of profit under the Government. The election of Veluswami, the appellant, before the Supreme Court, was challenged by a voter on the ground that at the time of filing his nomination

paper Arunachalam was not holding on office of profit and that, therefore, his nomination paper had been improperly rejected. The returned candidate submitted that the rejection was proper. In addition, he pleaded an additional ground to the effect that Arunachalam "was interested as a partner in contracts for the execution of works for the Government, and that further he had entered into an agreement with the District Board, Chittoor, to serve as a teacher in that Board and that his nomination paper was therefore rightly rejected." Upon these additional grounds being taken before the Tribunal, the returned candidate prayed that they may be struck off on the ground that the Tribunal had no jurisdiction to inquire into any ground of disqualification which was not taken before the Returning Officer. The Supreme Court observed:—

"Reading S.100(1) (c) in the context of the whole enactment, an enquiry before the Tribunal must embrace all the matters as to qualification and disqualification mentioned in 8.36(2), and that it cannot be limited to the particular ground of disqualification which was taken before the Returning Officer."

It was further observed with reference to the jurisdiction of the Tribunal that:—

"His jurisdiction is defined in S.36(2), and the Tribunal must therefore have jurisdiction to decide all the questions which can be raised under that section. The fact that a particular ground which could have been raised was not, in fact, raised before the returning Officer does not put an end to his jurisdiction to decide it, and what he could have decided if it had been raised, could be decided by the Tribunal, when raised."

All that was decided in this case was that where an objection had been raised before the returning officer against the acceptance of a nomination paper and the nomination paper was rejected on that ground, the jurisdiction of the Tribunal in an election petition was not confined to that ground alone and other objections to the nomination paper could be entertained by the Tribunal.

The facts of the case with which I am dealing are slightly different because in this case no objection whatsoever was raised by the petitioner and further in this case the challenge is to the improper acceptance of a nomination paper and not to its improper rejection.

The respondent relies upon a subsequent decision of the Supreme Court reported in 22 E.L.R. 64 in *re: S. M. Banerji V. Krishna Agarwal*, where the previous decision was discussed. In Banerji's case no objection had been taken to his nomination and his nomination paper was accepted. Upon Banerji being elected, a voter in the constituency filed a petition for declaring the election to be void and, by an amendment, the elector sought to add the ground challenging the acceptance of Banerji's nomination paper. The amendment sought for was allowed by the Tribunal and this order was challenged before the Supreme Court. The Supreme Court referred to an earlier decision reported in 9 E.L.R. 494 in *re: Durga Shankar Mehta V. Thakur Raghuraj Singh* and quoted the following observations of Mukherjee J.:—

"It would have been an improper acceptance, if the want of qualification was apparent on the electoral roll itself or on the face of the nomination paper and the returning officer overlooked that defect or if any objection was raised and enquiry made as to the absence of qualification in the candidate and the returning officer came to a wrong conclusion on the materials placed before him. When neither of those things happened, the acceptance of the nomination by the returning officer must be deemed to be a proper acceptance."

and observed:

"This judgment, therefore, is a clear authority for the proposition that if the want of qualification does not appear on the face of the nomination paper and if no objection is raised on that ground before the returning Officer, the acceptance of the nomination must be deemed to be a proper acceptance."

The Supreme Court distinguished Veluswami's case by observing:—

"There, unlike here, at the time of scrutiny of the nominations, objection was taken to the nomination of the candidate on the ground that he was the Head Master of the National Training School, Tiruchendur, which was a Government-aided school, and, therefore, he was disqualified under section 7, clauses (d) and (e) of the Act. The returning officer upheld the objection. In a petition to set aside the election, the returned candidate placed that the candidate whose nomination was rejected was not qualified to be chosen not merely on the ground put forward before the returning officer put also on other grounds....."

Referring to the case of Durga Shankar Mehta which had been noticed in Veluswami's case, the Supreme Court observed:—

"The two decisions can stand together and they deal with two different situations: in the former, no objection was raised at all to the nomination, while in the latter an objection was raised on the ground of disqualification; but in the election petition, additional grounds of disqualification were alleged and sought to be proved: one is concerned with a case of improper acceptance and the other with a case of improper rejection."

After dealing with the provisions of the Act, the Supreme Court observed:—

The foregoing discussion yields the following results: (1) Sub-clauses (i) and (iv) of section 100(1)(d) of the Act provide for two distinct grounds the former for the case of improper acceptance of any nomination, and the latter for that of non-compliance with the provisions of the constitution or of the Act, or of any rules or orders made under the Act; (2) when the candidate appears to a properly qualified on the face of the electoral roll and the nomination paper and no objection is raised to the nomination, the acceptance of the said nomination by the returning officer must be deemed to be proper acceptance; (3) even if there is a proper acceptance, it is open to the petitioner to question the validity of the election under section 100(1)(d)(v) on other grounds, namely that the candidate whose nomination was accepted was not qualified at all or could not be deemed to be duly nominated as a candidate for the reason that he did not comply with the provisions of section 33 (3) of the Act; and (4) if the second round in substance is not taken in the petition-substance is more important than form the Tribunal has no power after the prescribed period of limitation for the filing of the petition to allow an amendment introducing the second ground."

The learned counsel for the petitioner seeks to distinguish the decision of the Supreme Court in Banerji's case on the ground that the Supreme Court was only considering the question whether the amendment should or should not be allowed and that the law is as it has been laid down in Veluswami's case. It is difficult for me to accept this contention. The Supreme Court in its judgment in Banerji's case, as I read it, definitely held that a Division Bench of that Court which dealt with Veluswami's case were dealing only with a case of improper rejection and not with a case where no objection had been raised to the acceptance of the nomination paper. The second result enumerated above can bear no meaning other than this that if a nomination paper has been accepted by the returning officer in the absence of any objection and if the candidate appears to be properly qualified on the face of the electoral roll and the nomination paper, the acceptance of the said nomination by the returning officer must be deemed to be proper acceptance. I am bound by these observations and, therefore, hold that in the absence of any objection raised to the nomination paper of V. N. Kaushik, respondent No. 2, in this case, the acceptance of his nomination paper cannot be said to be improper acceptance within the meaning of section 100(1)(d)(i) of the Act.

This conclusion will really dispose of this objection not only with reference to the grounds with regard to the name of respondent No. 2 but also with regard to the grounds relating to Sher Singh, the proposer as are contemplated by Issue No. 6(e). But I will deal with the case of the petitioner on the assumption that the petitioner is entitled to challenge the acceptance of the nomination paper of V. N. Kaushik, respondent No. 2, in this case in this Court, even though no objection were raised by him before the returning officer.

It may be stated straightway that if respondent No. 2 is entitled to the name "V. N. Kaushik", then in so far as entries in the nomination paper pertaining to him are concerned, they do tally with the electoral roll. The contention of the petitioner, however, is that after 1964, respondent No. 2 ceased to have the name V. N. Kaushik by reason of his conversion to Islam as a result of which his name was changed to Mohammed Saleem Kaushik. The fact that respondent No. 2 embraced Islam in 1964 and the fact that he had then assumed the name "Mahatma Mohammed Saleem Kaushik" are admitted in the written statement of respondent No. 2. What respondent No. 2 has contended is that even after conversion to Islam, he continued to use both the names.

In so far as the oral evidence adduced by the petitioner in this behalf is concerned, the petitioner himself has stated that according to the information given to him by the Imam of the Delhi Jama Masjid, the name of respondent No. 2 was not V. N. Kaushik but

Mohammad Saleem Kaushik. In cross-examination by respondent No. 2, he has submitted:—

"I do not know whether even after embracing Islam, respondent No. 2 was known as V. N. Kaushik also..... I do not know whether even after embracing Islam, respondent No. 2 has been known as V. N. Kaushik also.

Therefor, I cannot admit or deny this."

The petitioner's testimony, therefore, cannot controvert the plea of respondent No. 2 that even after conversion to Islam he was known as V. N. Kaushik also and was using both the names. The other witness on whose testimony the petitioner has relied is Syed Abdullah (PW. 24). This witness is the Vice-Imam of the Jama Masjid, Delhi. He brought the register of new Muslims and proved the entry therein to the effect that on April, 2, 1964, respondent No. 2 was converted to Islam and that upon conversion he was named Mohammed Saleem Kaushik. After giving this evidence, this witness gives an opinion that, upon conversion, the convert has to use the new name and that the old name finishes. In the opinion of this witness, the use of the old name would amount to cheating. When asked about an authority for his statement, the witness did not cite any but stated that it was a matter of common sense. He further stated:—

"It is not ordained by the Quran that a person upon conversion to Islam must change his name, but it is ordained that the name of any Muslim should not be such as to contain any of the qualities or attributes of God."

It was on account of this last statement that an argument was raised by the counsel for the petitioner that since the name 'Vishamber' and the name 'Nath' in the Hindu name of respondent No. 2 referred to the qualities or attributes of God, respondent No. 2 could not have continued with his old Hindu name. I have not been impressed by the testimony given by PW. 24. His answer "It is a matter of common sense" to the question "Can you refer to any book by anybody which says that a man cannot retain his pre-conversion name upon conversion and upon adopting a Muslim name"—which question was repeated several times—shows that his opinion was not based upon any written text relating to Muslim converts. His statement that the name of any Muslim should not be such as to contain any of the qualities or attributes of God is again on the basis of his own opinion unsupported by any written text. I do not understand how this witness could possibly say that the name "Vishamber" and the name "Nath" which are undoubtedly Hindu names could be said, from the point of view of Muslims, to contain any of the qualities or attributes of God.

Really speaking, the evidence given by the petitioner goes beyond the pleadings. All that is stated in paragraphs 6 and 7 of the petition is that there is no person named V. N. Kaushik and the person who represented himself to be V. N. Kaushik is actually Mohammad Saleem Kaushik. There is not the slightest averment that respondent No. 2 embraced Islam and that after his conversion, he ceased to be V. N. Kaushik.

What is required by section 4(d) of the Act is that a candidate for election to Parliament must be an elector for any Parliamentary constituency. Section 2(e) says that an elector in relation to a constituency means a person whose name is entered in the electoral roll of that constituency for the time being in force and who is not subject to any of the disqualifications mentioned in section 16 of the Representation of the People Act, 1950. Section 16 of the 1950 Act specifies the disqualifications and these disqualifications are that the person concerned is not a citizen of India or is of unsound mind and stands so declared by a competent Court or is for the time being disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with the elections.

The name is that by which a person is known. The question, therefore, is whether respondent No. 2 was known by the name of V. N. Kaushik at the time when he filed his nomination paper. On this question there is overwhelming evidence against the petitioner. First, there are the house tax and water tax receipts (Exhibits R. 4, R. 5 and R. 6) pertaining to the years 1966 and 1967, which bear the name Vishamber Nath Kaushik. These receipts prove that even in public records, the name of respondent No. 2 continue to be Vishamber Nath Kaushik even after 1964. Secondly, there is oral evidence. Even the petitioner's witnesses Khushi Ram Kane (PW. 11), Raj Kishan Dube (PW. 12) and Uday Bhan (PW. 13) who had been respondent No. 2 sitting in Court have stated that he was V. N. Kaushik. On this evidence, it is not possible to accept the contention of the petitioner that respondent No. 2 had ceased to be V. N. Kaushik on the date when he filed his nomination paper and had ceased to be the elector whose name was entered in the electoral roll.

Next I come to the petitioner's objection regarding the name of the proposer. As stated earlier, the name of the proposer which is mentioned in the nomination Form (Ex. P. 1) is Sher Singh. The allegation of the petitioner is that no person by the name of Sher Singh son of Khazan as mentioned in the electoral roll exists or ever existed. The name and particulars of the proposer as given in the nomination paper undoubtedly tally with the name and particulars given in the electoral roll as those of a person by the name of Sher Singh who is residing in house No. 1442/2, Ram Nagar, Delhi, Shahadra :

In support of his case, the petitioner has produced one Kehar Singh (P.W. 4). He has denied that he is Sher Singh and has stated that no person bearing the name of Sher Singh son of Khazan ever lived in the house in which he is living. He has denied his signatures (Ex. P. 1/1) on the nomination paper Ex. P. 1. He was cross-examined first by respondent No. 2 who was not represented by counsel. In this cross-examination this witness has denied knowing the various persons whose names were put to him; he has denied having gone to the returning officer of filing the nomination paper; he has denied having come to this Court on earlier occasions and having had any talk with respondent No. 2 or with any other person and having admitted that he was Sher Singh. The questions that have been put by respondent No. 2, I am convinced, could not be imaginary and I am not satisfied about the truth of the denials made by this witness. He seems to be a very clever witness. In cross-examination by the counsel for respondent No. 2, he first said that he had read Hindi upto the first and second class, but realising that signatures on the nomination form were in Hindi, he gave another answer that he was not literate in Hindi; that he signed in Urdu and that he never studied in any school. On a question being put by the Court, this witness admitted that he had studied Hindi in the first or second class. He went to the extent of denying that he was a voter. He admitted that he was living in House No. 1442/2 where other members of his family were also living but in separate portions. He has given the particulars about the names of his grand-father, father, brothers, brothers' wives and their ages. He has also given the name of his own wife as Rattano and has admitted that all his relations whose names he has given, even though some are younger than him, are voters. What is more important is that his wife Rattano is entered in the electoral roll as the wife not of Kehar Singh but of Sher Singh and that the name of Sher Singh is entered in the electoral roll (Ex. PW. 1/1 at page 4 of the portion relating to village Bhagwanpur in Ram Nagar) and his father's name is mentioned as Khazan. In support of the Testimony of Kehar Singh (PW. 4), his father Khazan Singh (PW. 5) has also appeared as a witness for the petitioner. Khazan Singh has stated the names of his four sons but he has stated that one of the sons is Kehar Singh and that no person by the name of Sher Singh son of Khazan has ever lived in this house. He has admitted that his son Kehar Singh studied upto 3rd or 4th class in school and he goes on to state thereby contradicting Kehar Singh (PW. 4)—that Kehar Singh does not know any language other than Urdu. This witness has further admitted that Surji (R.1 W. 1) is his brother. I have not been impressed by the evidence of any of these two witnesses. They are obviously trying to support the petitioner's case and the reason may be that they are afraid of the consequences to Kehar Singh (PW. 4) because of the affidavit of Kehar Singh (PW. 4) which had been obtained by the petitioner in that behalf as is proved by the memorandum (Ex. P. 8) dated September 11, 1967 by Sukhraj Bahadur (PW. 22) where this Kehar Singh is stated to have said "that he had already furnished through one Khushi Ram Kains a counter affidavit favouring one Shri Brij Mohan, a defeated Congress candidate....."

The respondent has produced Surji (R.W. 1), a brother of Khazan and an uncle of Kehar Singh (PW. 4). He has stated that Kehar Singh is also called Sher Singh. Sripal Jai (R. 1 W. 15) has deposed that he went with Sher Singh on the day of the filing of the nomination paper and that it was Kehar Singh, the witness, who had signed as Sher Singh on the nomination paper Ex. P. 1. He seems to be familiar with the family of Khazan (PW. 5) and he has supported Surji (R. 1 W. 1) in the statement that Sher Singh is also known as Kehar Singh. D. K. Jain (R. 1 W. 2) has supported the case that was put by respondent No. 2 to Kehar Singh (PW. 4) in cross-examination to the effect that, on an earlier occasion, Kehar Singh had admitted that he was Sher Singh and that he had proposed the name of respondent No. 2.

The most important witness in this matter would, in my opinion, have been Rattano, the wife of Kehar Singh (PW. 4), whose name is entered in the electoral roll Ex. PW. 1/1 as the wife of Sher Singh and not as the wife of Kehar Singh. She has not been produced by the petitioner. The testimony of Kehar Singh (PW. 4) and Khazan (PW. 5) is contradictory and it appears to me that they have tried to hide the correct facts from the Court. There is cogent and reliable evidence that Kehar Singh (PW. 4) is also known as Sher Singh. In my view, the petitioner has failed to establish that no person of the name of Sher Singh ever existed.

My conclusions, therefore, on Issue No. 6(a), (b) and (c) are that respondent No. 2, after his conversion to Islam, was known both by the name of Mohammad Saleem Kaushik and by the name of V. N. Kaushik and that it is respondent No. 2 whose name V. N. Kaushik is entered in the electoral roll as an elector; that the proposer, Sher Singh, of the nomination paper of respondent No. 2 was not a fictitious person and that he and Kchar Singh (PW. 4) are one and the same person whose name Sher Singh is entered in the electoral roll as an elector and that the nomination paper of respondent No. 2 had not been improperly accepted.

In view of these findings, the question raised by Issue No. 6(d) whether the acceptance of the nomination paper of respondent No. 2 has materially affected the result of the election does not arise. I may however, say a few words regarding material effected upon the result of the petitioner's election upon the assumption that the nomination paper of respondent No. 2 was improperly accepted. Several witnesses have come on both sides. Those who have come for the petitioner have stated that if respondent No. 2 had not been in the contest, the votes polled by him would have been polled by the petitioner. Those who have been produced by the respondent have deposed that such votes would have been polled by him because of general dissatisfaction with the Congress and the feeling amongst the electorate that the attempt should be to defeat the Congress. Various self-styled office bearers of the Republican party, on whose ticket respondent No. 2 was contesting the election, have been produced as witnesses by both the sides and their statements contradict each other. Generally speaking, the evidence given by these witnesses is of the most general type and it is not possible for me to say that the petitioner has satisfactorily proved or discharged the burden to prove that the result of the election had been materially affected. In 10 ELR 30 in re: *Vashist Narain Sharma v. Dev Chand and others*, the Supreme Court has observed:—

"It is impossible to accept the *Ipse Dixit* of witnesses coming from one side or the other to say that all or some of the votes would have gone to one or the other one some supposed or imaginary ground. The question is one of fact and has to be proved by positive evidence. If the petitioner is unable to adduce evidence the only inescapable conclusion to which the Tribunal can come is that the burden is not discharged and that the election must stand. The language of section 100(1)(c) is too clear for any speculation about possibilities."

The evidence given by both the parties, at its best, amounts to a more speculation about possibilities. Assuming that the burden which has been placed upon the petitioner to prove these facts is not an impossible burden, I cannot say that any positive evidence has been given by the petitioner in this case to persuade me to hold that the result of the election in so far as he is concerned has been materially affected.

The remaining Issues, namely, Issue Nos. 2 to 5 and 10 to 14 are really interconnected. They have been argued upon collectively and I will deal with them together. These Issues are:—

- "2. Whether 6000 votes out of the votes declared invalid had been validly cast in favour of the petitioner and those votes were improperly rejected? O. P. Petitioner.
3. Whether 3000 votes out of the votes polled by respondent No. 1 had been improperly received and whether those votes should have been declared invalid and as such rejected? O. P. Petitioner.
4. Whether 1000 votes which had been cast in favour of the petitioner had been wrongly and improperly included in the total votes cast for respondent No. 1? O. P. Petitioner.
5. If issues Nos. 2 to 4 be proved in favour of the petitioner, whether the allegations contained in those issues, individually or collectively, have materially affected the result of the election? O. P. Petitioner.
10. Whether the petition does not contain a concise statement of the material facts on which the petition relies and if so what is the effect thereof? O. P. respondent No. 1.
11. Whether the allegations made in paragraphs 3, 4, 5, 7-A, 8, 11, 12, 13, 14 and 15 of the Election Petition are vague and indefinite and are, therefore, liable to be struck off? O. P. Respondent No. 1.
12. Whether the Election Petition does not disclose any cause of action? O. P. Respondent No. 1.
13. Whether the allegations contained in paragraphs 3, 4, 5, 13 and 14 of the Election Petition tantamount to a demand for scrutiny and recount of the ballot papers? O. P. Respondent No. 1.

14. Whether the petitioner has made out a *prima facie* case for scrutiny and recount of ballot papers? O. P. Petitioner."

The allegations pertaining to these Issues are contained in paragraphs 3 to 5 and 8 to 15 of the petition but at the time of arguments it was conceded that the petitioner has not given any evidence with regard to the allegations made in paragraphs 8 to 14. It is, therefore, necessary to set out only paragraphs 3 to 5 and 15 of the petition and they say:—

- "3. Atleast 6000 votes out of the votes declared invalid, were validly cast in favour of the petitioner. These votes were improperly rejected on flimsy ground sand against the rules and directions in this behalf. Most of these votes were rejected on account of a faint impression of the mark due to wrong folding of the ballot paper, although the votes were validity and clearly cast in favour of the petitioner.
4. At least 3000 votes which have been included in the number of votes polled for the respondent No. 1 have been improperly received. These votes should have been declared invalid and should have been rejected. These votes were not properly cast. These contained double marking, marking in blank space and doubtful markings.
5. At least 1000 votes which were cast in favour of the petitioner have been wrongly and improperly included in the total votes cast for the Respondent No. 1.
15. As disclosed from the facts mentioned above the result of the election has been materially affected by improper and illegal reception of void and invalid votes in favour of the respondent No. 1 and improper rejection of valid votes in favour of the petitioner; by improper acceptance of nomination of Respondent No. 2; by votes illegally cast at two places in violation of law and by grave and flagrant violation of law and rules relating to conduct of election. The election has not been held according to law and is void."

The reply of the respondent to these paragraphs is contained in paragraphs 3 to 5 and 15 of his written statement to the amended petition and these paragraphs read:—

- "3. Averments made in paragraph 3 of the petition are denied. Allegations of fact made in this paragraph and in the succeeding paragraphs of this petition, save as admitted by this respondent, are denied and the petitioner be put to strict proof thereof. It is denied that six thousand votes or any number of votes out of the votes declared invalid were cast or validly cast in favour of the petitioner. Result declared by the Returning Officer is conclusively and no case has been made out by the petitioner to disturb the same. No particulars of the ballot papers alleged to have been invalidly rejected have been furnished. Counting agents of the petitioner as well as the petitioner were present throughout during the course of counting and the ballot papers were examined scrutinised and counted in their presence. The allegations of the petitioner are only an after thought and no complaint and no objections were made and allegation being vague and indefinite should be struck off.
4. Averments made in paragraph 4 of the petition are denied. This is denied that 3000 votes or any number of votes have been improperly received in favour of this respondent. No particulars of any such alleged ballot papers have been furnished. Allegations are vague and indefinite and should be struck off. No invalid votes were included in the votes for this respondent. Counting agents of the petitioner as well as the petitioner were present throughout during the course of counting and the ballot papers were examined, scrutinised and counted in their presence. The allegations of the petitioner are only an after thought and neither any complaint or any objections were made.
5. Averments made in paragraph 5 of the petition are denied. No particulars of any votes alleged to have been wrongly and improperly included in the votes of this respondent have been furnished. This being so, the allegation should be struck off:
15. Each and every allegation in paragraph 15 of the petition is denied. Result of election has not been affected much less materially affected by any alleged improper and illegal reception of void and invalid votes in favour of this respondent, be alleged improper rejection of valid votes in favour of the petitioner, by alleged improper acceptance of nomination paper of Respondent No. 2 and by alleged illegally casting of votes or by any alleged violation of any Rules or law."

Since V. N. Kaushik, Respondent No. 2, is not concerned either with these Issues or with these pleas, it is not necessary to set out what he has stated in his written statement. The replication filed by the petitioner contains the petitioner's reply in its paragraphs 3 to 5 and 15 and these paragraphs read:—

- "3. Para No. 3 of the written statement is denied. The averments made in para No. 3 of the petition are correct and are reaffirmed. As avered in the petition votes were validly cast in favour of the petitioner. It is wrong that the result declared by the returning officer is conclusive. The numbers and other particulars of the ballot papers wrongfully rejected cannot obviously be given by the petitioner since the petitioner was not and could not be allowed to make note of the numbers and other particulars of such ballot papers. The petitioner is within his rights to take up the objections. The allegations are not vague and indefinite and cannot be struck off. It is wrong that the counting agents of the petitioner were allowed to scrutinise the ballot papers.
4. Para No. 4 of the written statement is wrong and denied and para No. 4 of the petition is reaffirmed. As already submitted the petitioner was not and could not be allowed to make note of the numbers and particulars of the ballot papers. It is wrong that the ballot papers were properly scrutinised, examined or counted. It is wrong that the counting agents of the petitioner were present all the time. It is further wrong that no objections were made. Objections were made but were improperly rejected.
5. Para No. 5 of the written statement is denied. As already submitted the petitioner cannot possibly give the ballot paper numbers and other particulars. Para No. 5 of the petition is reaffirmed.
15. Para No. 15 of the written statement is denied and para No. 15 of the petition is reaffirmed".

The application No. 245 of 1968 to which I have made a brief reference earlier may be adverted to again. This was an application whereby the petitioner prayed that he be allowed to inspect the rejected ballot papers and the ballot papers recording votes counted in favour of the respondent. The allegations upon which this prayer was based appear from what is stated in paragraphs 2, 3, 6, 7 and 8 of this application. These paragraphs are:—

- "2. That the petitioner has alleged that at least 6000 votes of the total votes declared invalid, that is 7723 were validly cast in his favour but were improperly rejected on flimsy grounds, that at least 3000 votes were improperly received in favour of respondent No. 1 and that at least 1000 votes, which were cast in favour of the petitioner have been wrongly and improperly included in the votes cast in favour of Respondent No. 1.
3. That the petitioner has been declared to have lost the said election only by a narrow margin of 5616 votes.
6. That the ballot papers were required to be folded vertically but a large number of voters, after recording their votes folded the ballot paper horizontally with the result that a faint impression, owing to wrong folding, appeared against the name of Shri V. N. Kaushik. At least, 6000 ballot papers were rejected simply because of the above said defect. The objection raised by Shri Gajraj Bahadur Nagar, Advocate who was looking after the counting on behalf of the petitioner, were summarily rejected. No ballot paper should have been rejected on this ground and the rejection of ballot papers on this ground was illegal.
7. That at least 3000 votes, were improperly received in favour of respondent No. 1. The ballot papers recording these votes, contained double marking, marking in blank space and doubtful markings. Objections raised by the counting agents of the petitioner, in this behalf, were not considered and were summarily brushed aside. The marking on these ballot papers did not at all indicate that those were cast in favour of respondent No. 1. Those ballot papers should have been rejected.
8. That at least 1000 votes were improperly included in the votes cast for respondent No. 1. As a matter of fact, marking on these ballot papers, indicated that these votes were cast in favour of the petitioner. The marking on these ballot papers were such that a small portion of the mark touched the column against the name of respondent No. 1 but the substantial portion of the mark was in the column against the petitioner, which clearly indicated

that these votes were cast in favour of the petitioner. Sometimes, even the bundles of the ballot papers recording votes cast in favour of the petitioner were included in the bundles of ballot paper recording votes in favour of respondent No. 1.

The allegations made in this application do not contain any more particulars than are contained in paragraphs 3 to 5 of the petition. Before an order for inspection and recount can be made, two main questions arise for consideration, namely, (1) Whether upon the allegations made in paragraphs 3 to 5 of the petition or paragraphs 2, 3, 6, 7 and 8 of the application No. 245 of 1968, referred to above, the petitioner has made out a *prima facie* case for inspection and recount and (2) whether it is in the interest of justice to make such an order.

The determination of the first question would normally depend upon the allegations made in the petition or in the application for inspection and recount to ascertain whether sufficient particulars have been given by the petitioner to make out a *prima facie* case but where, as in this case, the petitioner has led evidence in support of this claim, such evidence will also be looked into in order to determine whether a *prima facie* case has been established.

The averments in the petition and the statements of the various witnesses are to be noticed from this point of view that the petitioner in this case was, according to his own statement and the statements of some of his witnesses, present on the two days of counting only for about an hour on each day. Yet, he has in the verification to the petition, verified the contents of paragraphs 3 to 5 of the petition as being true to his knowledge. What the petitioner has stated in his evidence, however, is:—

"I received complaints regarding the illegal rejections of the votes cast in my favour as also reports against the illegal acceptance of votes in favour of respondent No. 1.

I attended the counting on both days for about an hour in the morning.

I did not attend the counting for the whole time because I was very sick."

Therefore, the allegations made in paragraphs 3 to 5 of the petition could not be true to his knowledge as averred in the verification. However, the first allegation contained in paragraph 3 of the petition is that at least 6000 votes out of the votes declared invalid which had been validly cast in favour of the petitioner had been improperly rejected on flimsy grounds; that most of them were rejected on account of a faint impression of the mark due to wrong folding of the ballot paper, although the votes were validly and clearly cast in favour of the petitioner. In the first place, the petitioner has not given the exact number of votes which, according to him had been improperly rejected. In the second place, although it is implicit in the allegations that there were grounds of rejection other than the presence of a faint impression of the mark on account of wrong folding, such other grounds have not been disclosed. In the third place, the exact number of votes rejected on the ground of presence of the faint impression of the voting mark on account of wrong folding has not been disclosed. In the fourth place, neither the serial number borne on the ballot paper; nor the particular polling booth; nor the name of the particular Assistant Returning Officer or Returning Officer have been given.

The second allegation, contained in paragraph 4 of the petition, is that at least 3000 votes had been improperly received for the respondent. Here again, the exact number of such votes has not been given. Although the reasons why they should have been rejected have been given, it is not disclosed as to how many suffered from the defect of double marking; how many from the defect of marking in the blank space and how many bore doubtful markings. The number borne on such ballots; the particular polling booth to which they related and the name of the Returning Officer or the Assistant Returning Officer concerned have not been disclosed.

The third allegation in that at least 1000 votes which are alleged to have been cast in favour of the petitioner have been wrongly and improperly included in the votes cast for the respondent. Here again, the exact number of such votes; the reason why they were wrongly and improperly included in the votes cast for the respondent; the numbers of the ballot papers; the polling booths to which these ballot papers related and the names of the Returning Officer or the Assistant Returning Officer concerned have not been disclosed.

It is upon these allegations that it is contended for the petitioner that sufficient particulars have been given so as to entitle the petitioner to inspection and recount because if all these votes which total 10000 are to be counted in favour of the petitioner, he would undoubtedly have been declared elected instead of the respondent. On the other hand, the

contention of the respondent is that necessary particulars have not been given so as to entitle the petitioner to inspection and recount and no votes were either improperly rejected or improperly accepted or wrongly and improperly counted in favour of the respondent.

To prove the number of the votes referred to in paragraphs 3 to 5 of the petition, the petitioner has relied first upon the statement of Fateh Singh (P.W. 16). This witness has stated that ballot papers for the Parliamentary Constituency were being rejected in thousands. He has further stated:—

"On seeing the ballot paper, I found that many of them had been wrongly folded with the result that the impression made in the column against the petitioner also appeared in the column against respondent No. 2 by reason of the wrong folding."

In cross-examination by the respondent, this witness has stated.

"The votes of the petitioner which were rejected were shown to his counting agents. I cannot tell the number of such rejected votes but they were in sufficient number The Counting agents of the petitioner did not object to the rejections to the Returning Officer in my presence."

This witness could not have been the source of the information upon which the petitioner asserted that 6000 votes had been improperly rejected on account of wrong folding because this witness, who was present only on the second day of counting has not given any number. He has even admitted that the counting agents of the petitioner did not raise any objections to the rejections in his presence. Therefore, no reliance can be placed upon the testimony of this witness to prove that a given number of votes was rejected on the ground of duplicate marking occasioned by wrong folding.

The next witness upon whose testimony reliance is placed is Rameshwar Goel (P.W. 17) who was one of the counting agents for the petitioner. He has stated that ballot papers upon which a duplicate impression appeared on account of wrong folding were rejected by the Returning Officer. He states:—

"On the first day the rejections on account of duplicate markings were in terms of hundreds On the second day the rejections on this ground were in terms of thousands. I did not raise any objection in regard to the votes which were accepted in favour of respondent No. 1. We did not give any exact number to the petitioner of the ballot papers rejected on account of duplicate markings. Nor was any number of such rejected votes given by Gajraj Bahadur Nagar, R. P. Gaur, Behari Lal and other persons who had met the petitioner after the declaration of the result. All the other persons also informed the petitioner that the rejections at their booths also had been in hundred and thousands on the ground of duplicate markings. In this meeting the other persons complained mostly about the rejections of the ballot papers on account of duplicate markings and did not mention the ballot papers which had been accepted in favour of respondent No. 1. I do not remember the exact number of votes rejected on the first day whether it was one hundred or twenty hundreds or more or less. The votes rejected on the second day on account of duplicate marking were about one thousand."

This witness rather than establishing the petitioner's case has really demolished it. It is obvious from a bare reading of the statement of this witness that the number of votes mentioned in paragraphs 3 to 5 of the petition is not even an estimate but is speculation of the wildest nature and the number of votes given in these paragraphs totalling 10000 have been given merely in an attempt to show that the result of the election has been materially affected.

The other witnesses upon whose evidence reliance has been placed by the petitioner are Radhey Shyam Khanna (P.W. 18), Ram Parkash Gaur (P.W. 19) and Gajraj Bahadur Nagar (P.W. 21). Apart from the fact that these witnesses also speak only in generalities, their statements cannot be given any reliance because Rameshwar Goel (P.W. 17) has stated that the number of votes was not given to the petitioner either by these witnesses or other persons who had met the petitioner after the declaration of the result.

It is not easy to understand why the petitioner has produced the Returning Officer and the four Assistant Returning Officers who were concerned with the counting of votes

relating to this election. Their statements have completely demolished the case of the petitioner had made out a case in the pleadings for inspection and recount.

The Returning Officer is A. A. Khwaja (P.W. 2). His examination-in-chief is confined to postal ballot as to which he has stated:—

"So far as the votes counted by me were concerned, objections were confined to the postal ballots only."

In cross-examination by the respondent this witness has clearly and categorically contradicted the petitioner and his witnesses who deposed that objections with regard to improper rejection and improper acceptance of votes were made to him because he stated.

"No complaint was brought to my notice by anybody that any objections raised with respect to counting by anybody were not being properly dealt with."

The next witness is R. K. Goswami (PW. 7), who was one of the Assistant Returning Officers. He has stated:—

"No representations were made to me with regard to the ballot papers rejected by me. Parties used to raise oral objections regarding the ballot papers. These oral objections were made only twice or thrice.....The ballot papers used to be kept in my hand. The counting agents or the candidates used to come round to have a look at the ballot paper. The ground of rejection was declared in the presence of the counting agents or the candidates. In many cases the counting agents agreed to the proposed rejections."

This witness conclusively establishes that every opportunity was given to the counting agents to raise their objections; that the objections were heard and the ballot papers were shown to the counting agents. No question has been put by the petitioner to this witness to ascertain the number of votes improperly rejected or improperly accepted or wrongly counted in favour of the respondent to establish the case as set out in paragraphs 3 to 5 of the petition. The next witness is V. P. Suri (PW. 8), another Assistant Returning Officer. He has stated:—

"The counting agents of the candidates used to be present at the time of rejection by me.....The reasons for rejection in abbreviated form were recorded on the back of the ballot paper.....Before rejecting a ballot paper, sometimes the ballot papers were handed over to the counting agents of the candidates for making objections.....In most of the cases, no objection was raised by the counting agents or the candidates to the rejection of ballot papers. It was because the infirmity of the ballot paper was obvious."

This witness has also not been questioned by the petitioner with respect to either the number of votes improperly rejected or improperly accepted or wrongly counted. He has also not been asked about any complaints relating to any of these things.

The next witness is K. N. Joshi (PW. 9), another Assistant Returning Officer. He has stated:—

"There were some objections to the rejection of ballot papers. They were decided there and then. There was neither an oral nor a written complaint about the rejections or the disposal of the objections to the rejection. The counting agents or the candidates were given full opportunity to inspect the ballot paper before its rejection. Arguments were heard in support of the objections and the grounds of rejection were declared in their presence. The ground of rejection was also written at the back of each ballot paper. In about 90 per cent cases there was no objection to the rejection of ballot papers, because of obvious infirmity....The petitioner did not object to the procedure adopted for counting of votes."

This witness also has not been questioned by the petitioner with regard to the number of votes or the reasons for their improper rejection or improper acceptance or wrong counting.

The next witness is Sukhray Bahadur (PW. 22), another Assistant Returning Officer. In examination-in-chief he has stated:—

"No objections of any kind were made before me on any of the two days of counting."

In his cross-examination he has stated:—

"The object when scrutinising a ballot paper is to determine the intention of the voter. It is correct that there was no objection to the rejection of ballot papers although there were a number of rejections."

What is more, a question was put to him and the question was —

"If the seal had been affixed in the column of one candidate and due to the wrong folding it left an impression and seal mark in the column of another candidate, was such a vote accepted."

and the answer of this witness is:

"Yes. Such a vote was accepted in favour of the candidate for whom the votes had been given irrespective of the smudging mark. In such a case I did fold the ballot paper to determine whether the smudge was due to the fold."

This statement of the witness completely demolishes the petitioner's case that at least 6000 votes which were cast in his favour had been rejected on account of a faint impression of the mark due to wrong folding of the ballot paper in the column of respondent No. 2.

In my view, neither the petitioner nor his witnesses have said anything in support of the allegations made in paragraphs 3 to 5 of the petition. In fact the evidence of the Returning Officer and of the four Assistant Returning Officers completely demolishes and disproves the petitioner's case. I, therefore, hold that the petitioner has failed to prove Issues Nos. 2 to 4. Issue No. 5 does not arise for consideration in view of this finding and this finding also disposes of Issue Nos. 10 to 14 against the petitioner.

In the result, the petition is dismissed with costs. The costs of respondent No. 1 are assessed at Rs. 1,000. Respondent No. 2 was not represented by counsel. In fact, he was not always present when the case was heard. In my opinion, he is not entitled to costs.

March 21, 1968,

(Sd./-) S. N. ANDLEY, Judge.

Words: 14504.

Cost: 36-35.

TRUE COPY

(Sd.) Illegible.

Examiner.

26-6-68

(To be referred to the reporter)

SEAL OF THE HIGH COURT OF DELHI

[No. 82/3 of 67/DL/68.]

नई दिल्ली, 6 दिसम्बर 1968

एस० ए० 3—लोक प्रतिनिधित्व अधिनियम, 1950 की धारा 13-क की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निर्वाचन आयोग, राजस्थान सरकार के परामर्श से, निर्वाचन निदेशक और निर्वाचन, स्थानीय स्वायत्त शासन, समाज कल्याण एवं नगर योजना विभाग में सरकार के एदेन सचिव श्री ए० ए० के० ए० को 26 अक्टूबर 1968 के अपराह्न से राजस्थान राज्य के लिए मुख्य निर्वाचन आफिसर के रूप में एतद्वारा नामनिर्देशित करता है।

[सं० 154/12/68.]

आदेश से,

के० एस० राजगोपालन, सचिव।

ORDERS

New Delhi, the 10th December, 1968

S.O. 4.—Whereas the Election Commission is satisfied that Shri Jallappa S/o Shri Thipperangappa, Agriculturist Siddapura, Madhugiri Taluk (Mysore State), a contesting candidate for election to the House of People from Madhugiri constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidate, even after due notice, has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Jallappa to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. MY-HP/8/67.]

New Delhi, the 12th December 1968

S.O. 5.—Whereas the Election Commission is satisfied that Shri Ummed Singh, Village Delhi Gaujar, P.O. Haldaur, District Bijnor, (Uttar Pradesh), a contesting candidate for election to the House of the People from Amroha Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidate even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Ummed Singh to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of State for a period of three years from the date of this Order.

[No. UP-HP/6/67(1).]

S.O. 6.—Whereas the Election Commission is satisfied that Shri Hasan, P.O. Didoli, Tehsil Amroha, District Moradabad, (Uttar Pradesh) a contesting candidate for election to the House of the People from Amroha Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And, whereas, the said candidate even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Hasan to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of State for a period of three years from the date of this Order.

[No. UP-HP/6/67(2).]

New Delhi, the 16th December, 1968

S.O. 7.—Whereas the Election Commission is satisfied that Shri Bhide Achyut George, 568 Shukrawar Peth, Poona-2, a contesting candidate for election to the House of the People from Poona Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any good reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Bhide Achyut George to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. MT-HP/39/67.]

By Order,

K. S. RAJAGOPALAN, Secy.

प्रदेश

नई दिल्ली, 10 दिसम्बर 1968.

एस० ओ० 8.—यतः, निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिए निर्वाचन के निमित्त मधुगिरी निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्री जालप्पा, सुपुत्र थिप्पीरंगप्पा, एपीकलचरिस्ट, सिदापुरा, मधुगिरी तालुक (मैसूर राज्य) लोक प्रतिनिधित्व अधिनियम 1951 तथा तद्वर्धन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं ;

और यतः, उक्त उम्मीदवार ने, उसे सम्यक् नोटिस दिये जाने पर भी, अपनी इस असफलता के लिये कोई कारण अथवा स्पष्टीकरण नहीं दिया है ;

अतः, अब, उक्त अधिनियम की धारा 10 क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री जालप्पा को संसद के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और सदस्य होने के लिये इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये अनर्हित घोषित करता है ।

[सं० देसू-जो० सं०/8/67]

नई दिल्ली, 12 दिसम्बर 1968.

एस० ओ० 9.—यतः, निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिए निर्वाचन के निमित्त अमरोहा निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्री उम्मेद सिंह, ग्राम कोली, गाऊजर, डाकघर हुलदौर, जिला भिजनीर (उत्तर प्रदेश) लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वर्धन बनाए गए नियमों द्वारा यथा अपेक्षित अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक् नोटिस दिये जाने पर भी, अपनी इस असफलता के लिये कोई कारण अथवा स्पष्टीकरण नहीं दिया है ;

अतः, अब, उक्त अधिनियम की धारा 10 क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री उम्मेद सिंह को संसद के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और सदस्य होने के लिये इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये अनर्हित घोषित करता है ।

[सं० उ० प्र०-जो० सं०/6/67(1)]

एस० ओ० 10.—यतः, निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिए निर्वाचन के निमित्त अमरोहा निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्री हुसन, डाकघर बिडोली, तहसील-अमरोहा, जिला मरावाबाद (उ०प्र०), लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वर्धन बनाए गए नियमों द्वारा यथा अपेक्षित अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक् नोटिस दिये जाने पर भी, अपनी इस असफलता के लिये कोई कारण अथवा स्पष्टीकरण नहीं दिया है ;

अतः, अब, उक्त अधिनियम की धारा 10 क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री हसन को संसद के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और सदस्य होने के लिये इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये अनर्हित घोषित करता है।

[सं० उ० प्र०-लो० सं०/6/67(2).]

नई दिल्ली, 18 दिसम्बर 1968

एस० प्रो० 11.—यतः, निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिए निर्वाचन के निमित्त पूना निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्री भिडे अच्युत जार्ज, 568 शुक्रवार पैठ, पूना-2 लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा यथा अपेक्षित अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक् नोटिस दिये जाने पर भी, अपनी इस असफलता के लिये कोई कारण अथवा स्पष्टीकरण नहीं दिया है;

अतः, अब, उक्त अधिनियम की धारा 10 क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री भिडे अच्युत जार्ज को संसद के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और सदस्य होने के लिये इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये अनर्हित घोषित करता है।

[सं० महा-लो० सं०/39/67]

आदेश से,

के० एस० राजगोपालन, सचिव।

ORDERS

New Delhi, the 9th December 1968

S.O. 12.—Whereas the Election Commission is satisfied that Shri Bhagwan Dass, son of Shri Bhup Singh, Nagla Chhua, Agra, (Uttar Pradesh), a contesting candidate for election to the House of the People from Agra Constituency has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Bhagwan Dass to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP/HP/73/67/(1).]

S.O. 13.—Whereas the Election Commission is satisfied that Shrimati Prem Kumari, wife of Dr. Ramdhar Singh, No. 168/3, Swetnagar, Dayal Bagh, Agra (Uttar Pradesh), a contesting candidate for election to the House of the People from Agra Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shrimati Prem Kumari to be disqualified for being chosen

as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/73/67(2).]

S.O. 14.—Whereas the Election Commission is satisfied that Swami Sachida Nand, resident of Village and P.O. Neemsar, Distt. Sitapur, (Uttar Pradesh) a contesting candidate for election to the House of the People from Misrikh constituency, has failed to lodge an account of his election expenses in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, after considering the representation made by the said candidate, the Election Commission is further satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Swami Sachida Nand to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/17/67.]

S.O. 15.—Whereas the Election Commission is satisfied that Shri Chawla Kishan Chand Tara Chand, Chembur, Post Office, 16-B-Chawla Bagh, Collector's Colony, Bombay-74, a contesting candidate for election to the House of the People from Rae Bareilly Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder:

And whereas, the said candidate even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Chawla Kishan Chand Tara Chand to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/22/67(1).]

S.O. 16.—Whereas the Election Commission is satisfied that Shri Rama Nand Anarya, Mohalla Isupur Ward No. 4, Nagar Hajipur, Distt. Muzaffarpur (Bihar) a contesting candidate for election to the House of the People from Rae Bareilly constituency, has failed to lodge an account of his election expenses in the manner required by the Representation of the People Act, 1957 and the Rules made thereunder.

And whereas, after considering the representation made by the said candidate, the Election Commission is further satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Rama Nand Anarya to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/22/67(2).]

New Delhi, the 13th December 1968

S.O. 17.—Whereas the Election Commission is satisfied that Shri Nand Lal Singh Yadao, Resident of 127/102, Jubi Hamirpur Road, Kanpur, (Uttar Pradesh), a contesting candidate for election to the House of the People from Kanpur Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder:

And whereas, the said candidate even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Nand Lal Singh Yadao to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/65/67.]

By Order,

HARDIP SINGH, Under Secy.
for Secy.

आदेश

नई दिल्ली, 9 दिसम्बर 1968

एस० नो० 18.—यतः निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिए निर्वाचन के निमित्त आगरा निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्री भगवान दास सुपुत्र श्री भूप सिंह, नंगला घुमा आगरा (उ० प्र०) लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वधीन बनाए गए नियमों द्वारा यथा अपेक्षित अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं ;

और, यतः उक्त उम्मीदवार ने, उसे सम्यक् नोटिस दिये जाने पर भी, अपनी इस असफलता के लिये कोई कारण अथवा स्पष्टीकरण नहीं दिया ;

अतः अब, उक्त अधिनियम की धारा 10क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री भगवान दास को संसद के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और सदस्य होने के लिये इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये अनर्हित घोषित करता है ।

[सं० उ० प्र०—लो० सं० 73/67 (1).]

एस० नो० 19.—यतः, निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिए निर्वाचन के निमित्त आगरा निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्रीमती प्रेमकुमारी धर्मपत्नी श्री रामाधर सिंह, सं० 1/68/3 स्वतः नगर, दयालबाग आगरा (उ० प्र०) लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वधीन बनाए गए नियमों द्वारा यथापेक्षित अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार ने उसे सम्यक् नोटिस दिये जाने पर भी अपनी इस असफलता के लिये कोई कारण अथवा स्पष्टीकरण नहीं दिया है ;

अतः अब, उक्त अधिनियम की धारा 10क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्रीमती प्रेमकुमारी को संसद के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और सदस्य होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये अनर्हित घोषित करता है ।

[सं० उ० प्र०—लो० सं० 73/67 (2).]

एस० नो० 20.—यतः निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिए निर्वाचन के निमित्त मिसरिख निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार स्वामी सचिदानन्द, गांव तथा डाकघर भीमसर, जिला सीतापुर (उत्तर प्रदेश) लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वधीन बनाए गए नियमों द्वारा अपेक्षित रीति से अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं ;

और, यतः उक्त उम्मीदवार द्वारा दिये गये अन्वेषित पर विचार करने के पश्चात्, निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिये कोई संस्था कारण या न्यायायोजित नहीं है ;

अतः अब, उक्त अधिनियम की धारा 10क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त स्वामी सचिदानन्द को संसद के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और सदस्य होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये अनर्हित घोषित करता है ।

[सं० उ० प्र०—लो० सं० 17/67.]

एस० प्रो० 21.—यतः, निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिए निर्वाचन के निमित्त राय बरेली निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्री चावला किशन चन्द ताराचन्द, चेम्बुर, डाकघर, 16-बी-चावला बाग, कलेक्टरेट्स कालोनी, बम्बई-74 लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक् नोटिस दिये जाने पर भी, अपनी इस असफलता के लिये कोई कारण अथवा स्पष्टीकरण नहीं दिया है;

अतः, अब, उक्त अधिनियम की धारा 10क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री चावला किशन चन्द ताराचन्द को संसद के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और सदस्य होने के लिये इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये अनर्हित घोषित करता है ।

[सं० उ० प्र०-लो० स०/22/67(1).]

एस० प्रो० 22.—यतः, निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिए निर्वाचन के निमित्त राय बरेली निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्री रामानन्द अनार्य, मुहल्ला इसपुर, वार्ड संख्या 4 नगर हाजीपुर, जिला मुजफ्फरपुर (बिहार), लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित रीति से अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं;

और, यतः, उक्त उम्मीदवार द्वारा दिये गये अभ्यावेदन पर विचार करने के पश्चात् निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिये कोई अच्छा कारण या न्यायायोजित नहीं है;

अतः, अब, उक्त अधिनियम की धारा 10क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री रामानन्द अनार्य को संसद के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और सदस्य होने के लिये इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये अनर्हित घोषित करता है ।

[सं० उ० प्र०-लो० स०/22/67(2).]

नई दिल्ली, 13 विसम्बर 1968

एस० प्रो० 23.—यतः, निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिए निर्वाचन के निमित्त कानपुर निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्री नन्दलाल सिंह यादव 127/102, जुही हुमीरपुर रोड, कानपुर (उत्तर प्रदेश), लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा यथा अपेक्षित अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक् नोटिस दिये जाने पर भी, अपनी इस असफलता के लिये कोई कारण अथवा स्पष्टीकरण नहीं दिया है ;

अतः, अब, उक्त अधिनियम की धारा 10क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री नन्दलाल सिंह यादव को संसद के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा

अथवा विधान परिषद् के सदस्य चुने जाने और सदस्य होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये अनर्हित घोषित करता है।

[संख्या उ० प्र०-लो०स०/65/67]

आदेश से,

हरदीप सिंह,

अवरसचिव,

कृते सचिव, भारत निर्वाचन आयोग।

ORDERS

New Delhi, the 12th November 1968

S.O. 24.—Whereas the Election Commission is satisfied that Shri Ram Nath Jubli Golden Transport Company, Moti Dungri Road, Jaipur (Rajasthan), a contesting candidate for election to the House of the People from Dausa constituency, has failed to lodge any account of his election expenses within the time and in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, after considering the representation made by the said candidate, the Election Commission is further satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Ram Nath to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No.RJ-HP/6/67(8).]

New Delhi, the 12th December 1968

S.O. 25.—Whereas the Election Commission is satisfied that Shri Saifullah of Village Monghyr, District Monghyr a contesting candidate for election to the House of the People from Saharsa constituency, has failed to lodge an account of his election expenses within the time and in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidate, even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declared the said Shri Saifullah to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. BR-HP/18/67/52.]

New Delhi, the 16th December 1968

S.O. 26.—Whereas the Election Commission is satisfied that Shri Jai Kishore Narain Singh of Village and P.O. Bhasar Machhaha, Distt. Muzaffarpur a contesting candidate for election to the House of the People from Sitamarhi constituency, has failed to lodge an account of his election expenses within the time and in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidate, even after due notice has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declared the said Shri Jai Kishore Narain Singh to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. BR-HP/11/67(53).]

By Order,

A. N. SEN,

Secretary to the Election Commission.

आदेश

नई दिल्ली, 12 नवम्बर, 1968

एस०ओ० 27.—यतः, निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिए निर्वाचन के निमित्त दोसा निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्री राम नाथ, जुबली गोल्डन ट्रांसपोर्ट कम्पनी, भोती डूंगरी रोड, जयपुर, राजस्थान, लोक प्रतिनिधित्व अधिनियम 1961 तथा तख्तीन बनाए गए नियमों द्वारा अपेक्षित समय तथा रीति से अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं;

और, यतः, उक्त उम्मीदवार द्वारा दिये गये अभ्यावेदन पर विचार करने के पश्चात्, निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिये कोई अच्छा कारण या न्यायोचित्य नहीं है;

अतः, अब उक्त अधिनियम की धारा 10क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री राम नाथ को संसद के दोनों सदन में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और सदस्य होने के लिये इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये अनर्हित घोषित करता है।

[सं० राज/लो०सं०/6/67(8)]

आदेश से,

ए० एन० सेन, सचिव।

MINISTRY OF HOME AFFAIRS

New Delhi, the 26th December 1968

S.O. 28.—In exercise of the powers conferred by clause (2) of article 77 of the Constitution, the President hereby makes the following rules further to amend the Authentication (Orders and other Instruments) Rules, 1958, namely:—

1. (1) These rules may be called the Authentication (Orders and other Instruments) EIGHTH Amendment Rules, 1968.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In rule 2 of the Authentication (Orders and other Instruments) Rules, 1958, for clause (f), the following clause shall be substituted, namely—
- (f) in the case of orders and other instruments relating to the Ministry of Finance (Department of Expenditure) by a Finance Officer or an Assistant Finance Officer or a Deputy Assistant Financial Adviser or a Director in that Department; or

[No. 3/15/68-Pub.I.]

K. R. PRABHU, Jt. Secy.

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 19th December 1968

S.O. 29.—In pursuance of clause (c) of sub-section (1) of section 21 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the

Reserve Bank of India, hereby nominates the following persons to be members of the Calcutta Local Board of the State Bank of India :—

1. Shri G. K. Bhagat, C/o. Bengal Potteries Ltd., 45, Tangra Road, Calcutta-15.
2. Shri Sukumar Roy, Director, Messrs. Flash Light (India) Private Limited, 135, Princep Street, Calcutta-13.
3. Dr. D. N. Lahiri, Managing Director, Pioneer Spring and Steel Concern Private Ltd., 3, Jahura Bazar Lane, Calcutta-42.

[No. F. 8/162/68-SB.]

S.O. 30.—In pursuance of clause (c) of sub-section (1) of section 21 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby renominates the following persons to be members of the Madras and Ahmedabad Local Boards of the State Bank of India :—

Madras Local Board

Shri K. S. Karayalar, Thycaud, Trivandrum.

Ahmedabad Local Board

Shri Rohit C. Mehta, Ram Nivas, Panchavati, Ellisbridge, Ahmedabad.

[No. F. 8/162/68-SB.]

S.O. 31.—In pursuance of clause (d) of sub-section (1) of section 19 of the State Bank of India Act, 1955 (23 of 1955) the Central Government, in consultation with the Reserve Bank of India, hereby nominates Shri P. N. Dhar, Director of the Institute of Economic Growth, University Enclave, Delhi-7 to be a director of the Central Board of the State Bank of India.

[No. F. 8/162/68-SB.]

New Delhi, the 30th December, 1968

S.O. 32.—Statement of the Affairs of the Reserve Bank of India, as on the 13th December, 1968.

BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital Paid up	5,00,00,000	Notes	16,94,96,000
		Rupee Coin	2,74,000
Reserve Fund	80,00,00,000	Small Coin	4,92,000
		Bills Purchased and Discounted :—	
National Agricultural Credit (Long term operations) Fund .	143,00,00,000	(a) Internal . . . . .	..
		(b) External . . . . .	..
		(c) Government Treasury Bills	200,94,02,000
National Agricultural Credit (Stabilisation) Fund . . .	33,00,00,000	Balance, Held Abroad*	62,37,20,000
		Investments**	209,68,49,000
National Industrial Credit (Long Term Operations) Fund .	55,00,00,000	Loans and Advances to :—	
		(i) Central Government . . . . .	..
		(ii) State Governments@	30,53,73,000
Deposits :—		Loans and Advances to :—	
(a) Government		(i) Scheduled Commercial Banks†	61,56,73,000
		(ii) State Co-operative Banks††	242,68,44,000
		(iii) Others	3,54,52,000
(i) Central Government	55,32,34,000		

LIABILITIES	Rs.	ASSETS	Rs.
		Loans, Advances and Investments from National Agricultural Credit (Long Term Operations) Fund :—	
(i) State Governments	7,34,82,000	(a) Loans and Advances to :—	
(b) Banks:—		(i) State Governments	31,54,05,000
(i) Scheduled Commercial Banks	147,60,78,000	(ii) State Co-operative Banks	14,56,38,000
(ii) Scheduled State Co-operative Banks	5,57,95,000	(iii) Central Land Mortgage Banks . . . . .	..
(iii) Non-Scheduled State Co-operative Banks	77,97,000	(b) Investment in Central Land Mortgage Bank Debentures	8,53,61,000
(iv) Other Banks	9,90,000	Loans and Advances from National Agricultural Credit (Stabilisation) Fund :—	
(c) Others	310,08,32,000	Loans and Advances to State Co-operative Banks	5,30,30,000
Bills Payable	34,00,00,000	Loans, Advances and Investments from National Industrial Credit (Long Term Operations) Fund:—	
Other Liabilities	56,29,42,000	(a) Loans and Advances to the Development Bank	6,26,71,000
	Rupees . 933,11,50,000	(b) Investment in bonds/debentures issued by the Development Bank . . . . .	..
		Other Assets	38,54,70,000
			Rupees . 933,11,50,000

*Includes Cash, Fixed Deposits and Short-term Securities.

**Excluding Investments from the National Agricultural Credit (Long Term Operations) Fund and the National Industrial Credit (Long Term Operations) Fund.

@Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

†Includes Rs. 50,15,00,000 advanced to scheduled commercial banks against usance bills under Section 17(4)(c) of the Reserve Bank of India Act.

††Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 18th day of December, 1968.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 13th day of December, 1968.

ISSUE DEPARTMENT

LIABILITIES		Rs.	Rs.	ASSETS		Rs.	Rs.
Notes held in the Banking Department	.	16,94,96,000	..	Gold Coin and Bullion :—			
Notes in circulation	.	3259,72,13,000	..	(a) Held in India	.	115,89,25,000	..
	.			(b) Held outside India	.	..	
TOTAL Notes issued	.		3276,67,09,000	Foreign Securities	.	226,42,00,000	..
				TOTAL	.		342,31,25,000
				Rupee Coin	.		81,25,67,000
				Government of India Rupee Securities	.		2853,10,17,000
				Internal Bills of Exchange and other Commercial paper	.		..
TOTAL LIABILITIES	.		3276,67,09,000	TOTAL ASSETS	.		3276,67,09,000

Dated the 18th day of December, 1968.

(Sd.) L. K. JHA,
Governor.

[No. F. 3(3)-BC/68.]

New Delhi, the 27th December 1968

S.O. 33.—Statement of the Affairs of the Reserve Bank of India, as on the 20th December 1968

BANKING DEPARTMENT

LIABILITIES		ASSETS	
	Rs.		Rs.
Capital paid-up	5,00,00,000	Notes	33,31,89,000
Reserve Fund	80,00,00,000	Rupee Coin	4,23,000
National Agricultural Credit (Long-Term Operations) Fund	143,00,00,000	Small Coin	5,23,000
National Agricultural Credit (Stabilisation) Fund	33,00,00,000	Bills Purchased and Discounted :—	
		(a) Internal . . . . .	..
		(b) External . . . . .	..
National Industrial Credit (Long-Term Operations) Fund	55,00,00,000	(c) Government Treasury Bills	199,08,12,000
		Balances held Abroad*	74,68,88,000
		Investments**	197,78,96,000
Deposits :—		Loans and Advances to :—	
(a) Government		(i) Central Government . . . . .	..
(i) Central Government	57,90,13,000	(ii) State Governments@	50,90,72,000

(*) State Governments	3,96,92,000	Loans and Advances to :—	
(b) Banks		(i) Scheduled Commercial Banks†	42,19,61,000
(i) Scheduled Commercial Banks	149,52,23,000	(ii) State Co-operative Banks††	251,28,76,000
(ii) Scheduled State Co-operative Banks	7,65,59,000	(iii) Others	3,85,07,000
(iii) Non-Scheduled State Co-operative Banks	74,27,000	Loans, Advances and Investments from National Agricultural Credit (Long-Term Operations) Fund	
(iv) Other Banks	12,57,000	(a) Loans and Advances to :—	
(c) Others	323,70,62,000	(i) State Governments	31,45,33,000
Bills Payable	29,97,75,000	(ii) State Co-operative Banks	14,51,95,000
Other Liabilities	66,36,25,000	(iii) Central Land Mortgage Banks . . . . .	..
		(b) Investment in Central Land Mortgage Bank Debentures	8,53,61,000
		Loans & Advances from National Agricultural Credit (Stabilisation) Fund—	
		Loans and Advances to State Co-operative Banks	5,30,31,000
		Loans Advances and Investments from National Industrial Credit (Long-Term Operations) Fund—	
		(a) Loans and Advances to the Development Bank	6,26,71,000
		(b) Investment in bonds/debentures issued by the Development Bank . . . . .	..
		Other Assets	38,66,97,000
Rupees	957,96,35,000	Rupees	957,96,35,000

*Includes Cash, Fixed Deposits and Short-term Securities.

** Excluding Investments from the National Agricultural Credit (Long-Term Operations) Fund and the National Industrial Credit (Long-Term Operations) Fund.

@Excluding Loans and Advances from the National Agricultural Credit (Long-Term Operations) Fund, not including temporary overdrafts to State Governments.

†Includes Rs. 34,81,00,000 advanced to scheduled commercial banks against usance bills under Section 17(4)(c) of the Reserve Bank of India Act.

††Excluding Loans and Advances from the National Agricultural Credit (Long-Term Operations) Fund and the National Agricultural Credit Stabilisation) Fund.

Dated the 24th day of December, 1968.

An Account pursuant to the Reserve Bank of India Act, 1934 for the week ended the 20th day of December 1968
ISSUE DEPARTMENT

LIABILITIES		ASSETS	
	Rs.		Rs.
Notes held in the Banking Department	33,31,89,000	Gold Coin and Bullion :—	
		(a) Held in India	115,89,25,000
		(b) Held outside India	206,42,00,000
Notes in circulation	3234,48,04,000	Foreign Securities	
Total Notes issued	3267,79,93,000	TOTAL	322,31,25,000
		Rupees Coin	82,38,51,000
		Government of India Rupee Securities	2863,10,17,000
		Internal Bills of Exchange and other Commercial Paper . . . . .	..
Total Liabilities	3267,79,93,000	Total Assets	3267,79,93,000

(Sd.) L. K. JHA, Governor.

Dated the 24th day of December, 1968.

[No. F. 3(3)-BC/68.]
V. SWAMINATHAN, Under Secy.

CORRIGENDUM

In the Statement of the Affairs of the Reserve Bank of India as on the 15th November 1968, Banking Department published in the Gazette of India dated 30th November, 1968 at Part II, Section 3(ii) on pages 5443-5444, the figure against the item "Investments" under Assets Side should read as '135,48,99,000' instead of 135,48,990.

(Department of Revenue & Insurance)

ORDER

F.E.R.A

New Delhi, the 4th January 1969

S.O. 34.—In exercise of the powers conferred by section 2B of the Foreign Exchange Regulation Act, 1947 (7 of 1947), the Central Government hereby authorises every Assistant Collector of Central Excise at Bangalore and the Assistant Collector of Central Excise at Madurai, to exercise the powers of an Assistant Director of Enforcement under section 19D of the said Act.

[No. 1/69/-FERA/F. No. 1/7/68-Tech.Coord.]

R. C. MISRA, Dy. Secy.

(Department of Revenue and Insurance)

CORRIGENDUM

INCOME-TAX

New Delhi, the 10th December 1968

S.O. 35.—In the notification of the Government of India in the Ministry of Finance (Department of Revenue & Insurance) No. S.O. 396 dated the 22nd January, 1968 published in Part II Section 3 sub-section (ii) of the Gazette of India dated the 3rd February, 1968, at p. 423, the entry No. 82 under Schedule II to the said notification may please be deleted, and the remaining entries re-numbered 82 to 88.

[No. F. 58/90/67-IT(Inv).]

E. K. LYALL, Dy. Secy.

CENTRAL BOARD OF DIRECT TAXES

INCOME-TAX

New Delhi, the 23rd December 1968

S.O. 36.—In exercise of the powers conferred by sub-section (1) of Section 121 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following amendments to the Schedule appended to its Notification No. 20 (F. No. 55/1/62-IT) dated the 30th April, 1963, published as S.O. 1293 on pages 1454-1457 of the Gazette of India, Part II, Section 3, sub-section (ii) dated the 11th May, 1963 as amended from time to time:—

The existing entries under columns (1), (2) and (3) against S. No. 6 shall be substituted by the following entries:—

Income-tax Commissioners	Headquarters	Jurisdiction
I	2	3
6. (Central) Bombay.	Bombay.	1. Central Sections I to XXIII, Bombay. 2. Central Circles I to V, Nagpur. 3. Central Circle, Ahmedabad.

[No. 137 (F. No. 55/449/68-IT-AI.)]

L. N. GUPTA, Under Secy.

MINISTRY OF COMMERCE**(Office of the Jt. Chief Controller of Imports and Exports)****(Central Licensing Area)****ORDERS***New Delhi, the 4th December 1968*

S.O. 37.—A licence No. P/AU/1212080 dated 29th March, 1968 of the value of Rs. 85,160/- for the import of Natural Sponges, Glassine Paper, Carnauba Wax etc., was issued to M/s. Chadha Shoe Factory, Sadar Bhatti, Agra.

2. It has now come to notice that the said licence has fallen into wrong hands and the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned in exercise of the powers vested in him under Clause 9, sub-clause (cc) of the Imports (Control) Order, 1955 hereby cancel the licence No. P/AU/1212080 dated 29th March, 1968 for Rs. 85,160/- issued in favour of M/s. Chadha Shoe Factory, Sadar Bhatti, Agra.

M/s. Chadha Shoe Factory,
Sadar Bhatti,
Agra.

[No. C-14/68/ENF/CLA/8912.]

*New Delhi, the 9th December, 1968***S.O. 38.**—Licence Nos :

- (1) P/SS/1605294/C dt. 2-2-1967 Rs. 4815/- Offset Horrow Discs.
- (2) P/SS/1605295/C dt. 2-2-1967 Rs. 14445/- Offset Horrow Discs.
- (3) P/SS/1506044/C dt. 14-7-1966 Rs. 7480/- High Carbon Steel Discs.

were issued to M/s. The Haryana Farm Machinery Production Cum Sale Industrial Co-operative Society Ltd., G. T. Road, Hansi (Haryana) subject to the conditions that all items of goods imported under it shall be used only in the licence holder's factory and no portion thereof shall be sold to any other party or utilised or permitted to be used in any other manner.

2. Thereafter, show cause notice Nos. H-13/67/ENF/CLA/1940 dated 28-5-68 and H-13/67/ENF/CLA/2212 dated 12-6-68 were issued asking them to show cause *within 15 days* as to why the said licences in their favour should not be cancelled on the ground that the Central Govt. is satisfied that the licences will not serve the purpose for which these were granted in terms of Clause 9, sub-clause (cc) of Imports (Control) Order, 1955.

3. In response to the aforesaid show cause notices M/s. The Haryana Farm Machinery Production Cum Sale Industrial Co-operative Society Ltd., G. T. Road, Hansi (Haryana) have forwarded no reply.

4. Having regard to what has been stated in the preceeding paragraph, the undersigned is satisfied that the licences in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under Clause 9 sub-clause (cc) of the Imports (Control) Order, 1955 hereby cancel the licence Nos. as mentioned above.

M/s. The Haryana Farm Machinery Production-
Cum-Sale Industrial Co-op. Society Ltd.,
G.T. Road, Hansi (Haryana).

[No. H-13/67/ENF/CLA/9348.]

J. S. BEDI,

Jt. Chief Controller of Imports and Exports.

(Office of the Chief Controller of Imports and Exports)**ORDER***New Delhi, the 26th December 1968*

S.O. 39.—M/s. Tata Iron & Steel Co. Ltd., Jamshedpur were granted an import licence No. P/F/2013784 C/XX/29/H27-28 dated 19th December, 1968 for Rs. 6,500 for import of wine and Champagne. They have applied for duplicate copy of the import licence on the ground that the original licence (both copies) has been lost or misplaced. It is further stated that the original import licence was not registered with the Custom House and not utilised. In support of this contention, they have filed an affidavit. I am

satisfied that the original licence No. P/F/2013784 dated 19th December, 1968 has been lost or misplaced and direct that a duplicate licence should be issued to the applicants. The original licence is cancelled.

[No. 82-84-IV/403/AM69/Adhoc/558.]

S. K. USMANI,

Dy. Chief Controller of Imports & Exports.

MINISTRY OF PETROLEUM AND CHEMICALS

New Delhi, the 23rd December 1968

S.O. 40.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 2017 dated 30th May, 1968 under sub-section (i) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines;

And whereas the competent authority has, under sub-section (i) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (I) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government, vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

Laying pipeline from Drill site No. B.M. & B.N., B.O. to G.G.S.

SCHEDULE

State :— Gujarat

Distt. :— Kaira

Taluka:— Matar

Village	Survey No.	Hectare	Are	P. Are
Kathawada	175/1	8	19	00
	175/2			
	175/3			
	176/1			
"	176/2	0	2	00
	180/1			
	180/2			
	180/3			
"	180/4	0	10	00
	180/5			
"	181			
"	182	0	0	50
"	238	0	7	00
"	250	0	6	00
"	249/1	0	6	50
	249/2			
"	247/1	0	8	50
	247/2			
	247/3			
	292/1			
"	292/2	0	4	10
	292/3			
	303/8			
"	303/9			
	303/6	0	8	00
	303/12			
	303/13			

Village	Survey No.	Hectare	Acre	P. Acre
Navagam	998/1 998/2 998/3 998/4 998/5	0	1	50
"	999/2	0	4	00
"	1052	0	4	00
"	1051	0	1	50
"	1053	0	3	50
"	1050	0	3	00
"	1054/1	0	1	00
"	1055/1 1055/2	0	4	50
"	1056/1 1056/2 1056/3 1056/4	0	5	00
"	1066/1 1066/2 1066/3	0	6	50
"	852/1 852/2 852/3	0	7	00
"	853	0	0	75
"	854	0	4	00
"	858/1 858/2	0	6	00
"	857	0	4	50
"	746	0	4	00
"	740/1 740/2 740/3	0	2	00
"	741/1 741/2 741/3	0	5	00
"	748/1 748/2	0	6	50
"	749	0	3	00
"	738	0	14	00
"	737	0	5	00
"	707	0	3	00
"	706	0	3	00
"	619	0	4	50
"	616/1 616/2/1 616/2/2	0	5	00
"	618/1 618/2 618/3	0	3	00
"	611/1 611/2 611/3	0	8	00
"	501	0	9	50
"	608/1 608/2 608/3	0	3	00

Village	Survey No.	Hectare	Are	P. Are
Navagam	467/1 P	0	16	00
"	467/2			
"	502/1			
"	502/2			
"	502/3	0	10	00
"	502/4			
"	502/5			
"	502/6			
"	504	0	1	00
"	302/1	0	1	00
"	302/2			
"	739	0	3	00
"	617/1			
"	617/2	0	1	00
"	617/3			
"	466	0	8	00
"	304/1	0	4	00
"	304/2			
Pansoli	301	0	9	50
"	299	0	12	50
"	300	0	7	50
"	294	0	5	00
"	293/1	0	12	50
"	293/2			
"	292	0	3	00
"	291	0	1	00
"	298	0	2	00
"	296	0	17	00
"	297	0	1	00
"	318	0	3	00
"	282	0	9	00
"	281	0	9	00
"	280	0	4	50
"	279	0	0	75

[No. 29(7)/68-IOC-Lab.]

ERRATUM*New Delhi, the 20th December 1968*

S.O. 41.—In the notification of the Government of India in the former Ministry of Mines and Fuel S.O. No. 2999 dated 9th October, 1963 published in the Gazette of India Part—II, section 3, sub-section (ii), dated 19th October, 1963 at page 3801, S. No. 204 of village Karel be omitted.

[No. 31/38/63-ONG/Prod/IOC(i) Vol.7.]

I. M. SAHAI, Dy. Secy.

MINISTRY OF HEALTH, FAMILY PLANNING AND URBAN DEVELOPMENT**(Department of Health and Urban Development)***New Delhi, the 20th November 1968*

S.O. 42.—In exercise of the powers conferred by sub-clause (ii) of clause (b) of section 3 of the Drugs and Cosmetics Act, 1940 (23 of 1940), the Central Government

hereby makes the following amendment to the notification of the Government of India in the late Ministry of Health No. F. 1-20/60-D, dated the 3rd June, 1961, namely :—

In the said notification, for item 3, the following item shall be substituted, namely :—

"3. Disinfectants

- (1) Disinfectant fluids made from Coal Tar acids derived from petroleum or a mixture of both, with hydrocarbons.
- (2) Disinfectant fluids made from synthetic or naturally occurring substances other than those mentioned in (1) above by virtue of their composition possessing disinfectant properties or which claim to possess disinfectant properties."

[No. F. 1-49/68-D.]

L. K. MURTHY, Under Secy.

स्वास्थ्य, परिवार नियोजन एवं नगर विकास मंत्रालय

(स्वास्थ्य एवं नगर विकास विभाग)

नई दिल्ली, 20 दिसम्बर 1968

एस० ओ० 43.—श्रीषष्ठ एव अंगरारा अधिनियम, 1940 (1940 का 23) की धारा 3 के खण्ड (ख) के उप-खण्ड (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा भूतपूर्व स्वास्थ्य मंत्रालय के 3 जून, 1961 की अधिसूचना संख्या एफ 1-20/60 श्रीषष्ठ में निम्नलिखित संशोधन करनी है ; नामतः

उपर्युक्त अधिसूचना की मद संख्या 3 के स्थान पर निम्नलिखित मद रखी जाये :—

"3. रोगाणुनाशक :

- (1) पेट्रोलियम से निकाला गया कोलतार अम्ल से बना रोगाणुनाशक तरल अथवा हाइड्रोकार्बन के साथ दोनों का मिश्रण ।
- (2) उपर्युक्त (1) में उल्लिखित के सिवाय अन्य संश्लिष्ट अथवा प्राकृतिक पदार्थों से निर्मित रोगाणुनाशक तरल जो अपने संघटन के आधार पर रोगाणुनाशक होते हैं अथवा जो रोगाणुनाशक गुणमुक्त होने का दावा करते हैं ।"

[प० सं० 1-49/68 श्रीषष्ठि.]

एल० क० मूत, अवर सचिव ।

CENTRAL ELECTRICITY AUTHORITY

New Delhi, the 20th December 1968

S.O. 44.—On his reversion to the Mysore State Electricity Board, Shri K. T. Bhimsena relinquished charge of the post of Asstt. Director in the Southern Regional Electricity Board, Bangalore, on the afternoon of the 30th November, 1968.

[No. 4/20/67-Adm.I(PW).]

M. M. DHAWAN, for Chairman, C.E.A., Under Secy.

MINISTRY OF TRANSPORT AND SHIPPING

(Transport Wing)

New Delhi, the 23rd December 1968

S.O. 45.—In exercise of the powers conferred by section 4 of the Merchant Shipping Act, 1958 (44 of 1958), read with sub-rule (2) of rule 4 of the National Shipping Board Rules, 1960, the Central Government hereby appoints Shri Mulka Govinda Reddy, Member of Parliament as a member of the National Shipping Board on election by the Council of States in place of Shri Dahyabhai V. Patel, who has resigned from the Board, and makes the following further amendment in the notification of the Government of India in the Ministry of Transport and Shipping (Transport Wing) No. S. O. 2319, dated the 6th July, 1967, namely:—

In the said notification, for the entry “5 Shri Dahyabhai V. Patel” the entry “5 Shri Mulka Govinda Reddy” shall be substituted.

[No. 37-MD(4)/67.]

JASWANT SINGH, Under Secy.

DEPARTMENT OF COMMUNICATIONS

(P. & T. Board)

New Delhi, the 5th December 1968

S.O. 46.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following Rules to amend the Posts and Telegraphs Department, Civil Engineering Wing (Architectural Draftsmen) Recruitment Rules, 1966, namely:—

1. **Short title and commencement.**—(1) These rules may be called the Posts and Telegraphs Department, Civil Engineering Wing (Architectural Draftsmen) Recruitment Amendment Rules, 1968.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Schedule annexed to the Posts and Telegraphs Department, Civil Engineering Wing (Architectural Draftsmen) Recruitment Rules, 1966, in the entry in column 10 against the post in serial No. 2 ‘Senior Draftsmen’, for the words “five years”, the words “three years” shall be substituted.

[No. 4-11/64-Estt(C)/STB-II.]

R. M. CHAUDHURI,
Assistant Director General (Stn.)

MINISTRY OF INFORMATION AND BROADCASTING

ORDERS

New Delhi, the 20th December 1968

S.O. 47.—In pursuance of the directions issued under the provisions of the enactments specified in the First Schedule annexed hereto the Central Government after considering the recommendations of the Film Advisory Board, Bombay hereby approves the film specified in column 2 of the Second Schedule annexed hereto in all its language versions to be of the description specified against it in column 6 of the said Second Schedule.

THE FIRST SCHEDULE

(1) Sub-Section (3) of Section 5 of the West Bengal Cinemas (Regulation) Act, 1954 (West Bengal Act XXXIX of 1954)

S. No.	Title of the Film	Length 35 mm	Name of the Applicant	Name of the Producer	Whether a Scientific film or a film intended for educational purposes or a film dealing with news & current events or a documentary film.
1	2	3	4	5	6
1.	The Totos	381.00 M	Calcutta Film Society, Bharat Bhavan 3, Chittaranjan Avenue, Calcutta-13.		Documentary film, For (release in the West Bengal Circuit)

[No. F. 24/1/68-FP App. 1314.]

S O. 48.In pursuance of the directions issued under the provision of each of the enactments specified in the First Schedule annexed hereto the Central Government after considering the recommendations of the Film Advisory Board, Bombay hereby approves the film specified in column 2 of the Second Schedule annexed hereto in Gujarati to be of the description specified against it in column 6 of the said Second Schedule.

THE FIRST SCHEDULE

- (1) Sub-Section 4 of the Section 12 and Section 16 of the Cinematograph Act, 1952 (Central Act XXXVII of 1952).
 (2) Sub-Section (3) of Section 5 and Section 9 of the Bombay Cinemas (Regulation) Act, 1953 (Bombay Act XVII of 1953).
 (3) Sub-Section (4) of Section 5 and Section 9 of the Saurashtra Cinemas (Regulation) Act, 1953 (Saurashtra Act XVII of 1953).

THE SECOND SCHEDULE

S. No.	Title of the film	Length 35 mm	Name of the Applicant	Name of the Producer	Whether a Scientific film or a film intended for educational purposes or a film dealing with news & current events or a documentary film.
1	2	3	4	5	6
1	Mahitichitra No. 102	339.27 M	Director of Information, Government of Gujarat, Ahmedabad-15.		Film dealing with news and current events (For release in Gujarat Circuit only).

[No. F. 24/68-FP App. 1315.]

CORRIGENDA

New Delhi, the 20th December 1968

S.O. 49.—In the Schedule to this Ministry's Order S.O. No. 3621 dated the 3rd October, 1968 appearing in the Gazette of India, Extra-Ordinary, Part II Section 3—Sub-Section (ii) No. 386 dated the 14th October 1968, against Sl. No. 4 and under columns 2 and 3, please read "Forts and The Man" and "438 M" for the existing words and figures "Of Forts and Men" and "433 M", respectively.

[No. F. 24/1/68-FP App. 1311.]

S.O. 50.—In the Schedule to this Ministry's order S.O. 3723 dated the 11th October, 1968 appearing in the Gazette of India, Extra-Ordinary, Part II Section 3 Sub-Section (ii) No. 392 dated the 17th October, 1968, against S. No. 2 under column 2 please read "And the Stars Look on" for the existing entry "And the Stars Gaze".

[No. F. 24/1/68-FP App. 1312.]

BANU RAM AGGARWAL, Under Secy.

सूचना और प्रसारण मंत्रालय

आदेश

नई दिल्ली 20 दिसम्बर, 1968

एस० न० 51.—इसके साथ लगी प्रथम अनुसूची में निर्धारित प्रत्येक अधिनियम के उपबन्ध के अन्तर्गत जारी किये गये निदेशों के अनुसार, केन्द्रीय सरकार, फिल्म सलाहकार बोर्ड, बम्बई की सिफारिशों पर विचार करने के बाद, एतद्वारा, इसके साथ लगी द्वितीय अनुसूची के कालम 2 में दी गई फिल्म की उसके सभी भारतीय भाषाओं के रूपांतर सहित, जिसका विवरण उसके सामने उक्त द्वितीय अनुसूची के कालम 6 में दिया हुआ है, स्वीकृत करती है :—

प्रथम अनुसूची

पश्चिमी बंगाल सिनेमा (विनियम) अधिनियम 1954 (1954 का 39वां पश्चिमी बंगाल अधिनियम) की धारा 5 की उपधारा (3)।

द्वितीय अनुसूची

क्रम संख्या	फिल्म का नाम	फिल्म की लम्बाई 35 मि० मी०	आवेदक का नाम	निर्माता का नाम	क्या वैज्ञानिक फिल्म है या शिक्षा संबंधी फिल्म है या समाचार और सामयिक घटनाओं की फिल्म है या डाकुमेंट्री फिल्म है।
(1)	(2)	(3)	(4)	(5)	(6)
1	दी टोटो	381.00 मीटर	कलकत्ता फिल्म सोसाइटी, भारत भवन, 3-चिट-रंजन एवेन्यू, कलकत्ता-13	डाकुमेंट्री फिल्म (केवल पश्चिमी बंगाल रिलीज लिये)	फिल्म सफिट में करने के लिये)

(फाईल संख्या 24/1/68-एफ०पी०-परिशिष्ट 1314)

एस० ओ० 52.—इसके साथ लगी प्रथम अनुसूची में निर्धारित प्रत्येक अधिनियम के उपबन्ध के अन्तर्गत जारी किये गये निदेशों के अनुसार, केन्द्रीय सरकार, फिल्म सलाहकार बोर्ड, बम्बई की सिफारिशों पर विचार करने के बाद, एतद्वारा, इसके साथ लगी द्वितीय अनुसूची के कालम 2 में दी गई फिल्म को उसके गुजराती भाषा के रूपांतर सहित, जिसका विवरण उसके सामने उक्त द्वितीय अनुसूची के कालम 6 में दिया हुआ है, स्वीकृत करती है :—

प्रथम अनुसूची

- (1) चलचित्र अधिनियम, 1952 (1952 का 37वां केन्द्रीय अधिनियम) की धारा 12 की उपधारा (4) तथा धारा 16
- (2) बम्बई सिनेमा (विनियम) अधिनियम 1953 (1953 का 17वां बम्बई अधिनियम) की धारा 5 की उपधारा (3) तथा धारा 9
- (3) सौराष्ट्र सिनेमा (विनियम) अधिनियम 1953 (1953 का 17वां सौराष्ट्र अधिनियम) की धारा 5 की उपधारा (4) तथा धारा 9।

द्वितीय अनुसूची

क्रम संख्या	फिल्म का नाम	फिल्म की लम्बाई 35 मि०मी०	आवेष्टक का नाम	निर्माता का नाम	क्या वैज्ञानिक शिक्षा सम्बन्धी फिल्म है या समाचार और सामयिक घटनाओं की फिल्म है या डाकु-मेंट्री फिल्म है।
(1)	(2)	(3)	(4)	(5)	(6)
1	महीतिचीत्रा संख्या 102	339. 27 मीटर		सूचना निदेशक, गुजरात सरकार, अहमदाबाद-15	समाचार और सामयिक घटनाओं से संबंधित फिल्म (केवल गुजरात सकिट के लिये)

[फाइल संख्या 24 1 68-एफ(पी)-परिशिष्ट 1315]

शुद्धि-पत्र

नई दिल्ली, 27 दिसम्बर 1968

एस० ओ० 53.—भारत के प्रसाधनरण मन्त्रालय के भाग 2, खण्ड 3 के उपखण्ड (2) संख्या 386 तारीख 14 अक्टूबर 1968 में प्रकाशित इस मन्त्रालय के आदेश एस० ओ० संख्या

3621 तारीख 3 अक्टूबर 1968 के पारशिष्ट में कलम 2 और कलम 3 के भावे क्रम संख्या 4 के सामने वर्तमान शब्दों और अंकितों "आफ फर्टस एंड मेन" एवं "433 सी" के स्थान पर क्रमशः फर्टस एंड दा मेन" एवं "438 सी" ढ़ा जाए।

[सं० फ० 24/1/68-एफ० पी०-पारशिष्ट 1311.]

एस० आ० 54.—आज के अज्ञात नाम के भाग 2, खंड 3 के उपखंड (2) संख्या 392 तारीख 17 अक्टूबर 1968 में प्रकाशित इलाखाला के आदेश एस० आ० 3723 तारीख 11 अक्टूबर, 1968 के पारशिष्ट में कलम 2 के भावे क्रमसंख्या 2 के सामने वर्तमान पारशिष्ट "एंड दा स्टर्स गाजे" के स्थान पर "एंड दा स्टर्स लुक आन" ढ़ा जाए।

[सं० फ० 24/1/68-एफ० पी० पारशिष्ट 1312.]

बानू राम अग्रवाल, अवर सचिव।

MINISTRY OF LABOUR, EMPLOYMENT AND REHABILITATION

(Department of Labour and Employment)

New Delhi, the 23rd December 1968

S.O. 55.—Whereas an industrial dispute between the management of Messrs M. L. Banerjee and Sons, Calcutta, and their workmen has been referred to the Industrial Tribunal, Dhanbad, for adjudication by the Order of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S. O. 2603 dated the 20th July 1968; (hereinafter referred to in this Order as the said Order);

And Whereas the Central Government considers it desirable to include the demand relating to the privilege leave also in the said reference;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby makes the following amendment in the said Order, namely :—

In the Schedule to the said Order, for item (4), the following item shall be substituted:—

"(4) Privilege leave, sick leave and casual leave."

[No. 28/35/68-LR.III.]

S.O. 56.—In exercise of the powers conferred by section 5 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), read with rule 3 of the Dock Workers (Advisory Committee) Rules, 1962, the Central Government hereby constitutes a Dock Workers Advisory Committee consisting of the following members, namely :—

Members representing the Central Government

- (1) The Secretary to the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment)—Chairman.
- (2) The Deputy Secretary, Ministry of Transport and Shipping (Transport Wing) (Ports).
- (3) The Chairman, Calcutta Dock Labour Board, Calcutta.
- (4) The Chairman, Bombay Dock Labour Board, Bombay.
- (5) The Chairman, Madras Dock Labour Board, Madras.
- (6) The Chairman, Cochin Dock Labour Board, Cochin.
- (7) The Chairman, Vizagapatam Dock Labour Board, Visakhapatnam.
- (8) The Chairman, Mormugao Dock Labour Board, Mormugao.
- (9) The Chairman, Kandla Dock Labour Board, Gandhidham (Kutch).

Members representing the employers of dock workers and shipping companies :

- (1) Shri K. P. Mukherjee, Calcutta Master Stevedores' Association.
- (2) Shri S. C. Sheth, Bombay Stevedores' Association.
- (3) Shri R. K. Varadanarayanan, Madras Stevedores' Association.
- (4) Shri K. J. Earnest, United Stevedores' Association Cochin, Cochin.
- (5) Shri K. S. Dutt, Visakhapatnam Stevedores' Association.
- (6) Shri V. S. Manerkar, Mormugao Stevedores' Association.
- (7) Shri N. C. Mehta, Kandla Stevedores' Association.
- (8) Shri C. C. Modi, Indian National Ship Owners' Association.
- (9) Shri N. M. Mehta, Bombay and Calcutta Consultative Sub-Committees of Shipping Interests in Overseas Trades.

Members representing the dock workers :

- (1) Shri Janaki Mukherjee, National Union of Waterfront Workers (INTUC), Calcutta.
- (2) Shri Niharendu Dutt Mazumdar, West Bengal Dock Mazdoor Union (Independent), Calcutta.
- (3) Shri S. R. Kulkarni, All India Port and Dock Workers' Federation. (HMS), Bombay.
- (4) Shri K. A. Khan, Transport & Dock Workers' Union (HMS), Bombay.
- (5) Shri A. S. K. Iyengar, Madras Harbour Workers' Union (AITUC), Madras.
- (6) Shri G. S. Dharasingh, Cochin Port Thozhilali Union (INTUC), Cochin.
- (7) Shri P. M. Naidu, Port Khalasis Union (INTUC), Visakhapatnam.
- (8) Shri Mohan Nair, Goa Dock Labour Union (INTUC), Vasco-da-Gama, Goa.
- (9) Shri Ramakant Ramchandra Desai (HMS), New Kandla.

[No. 633/5/66-Fac.II.]

K. D. HAJELA, Under Secy.

(Department of Labour and Employment)*New Delhi, the 23rd December 1968*

S.O. 57.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 2), Dhanbad, in the industrial dispute between the employers in relation to the Jealgora Colliery of Messrs East Indian Coal Company Limited, Post Office Jealgora, District Dhanbad and their workmen, which was received by the Central Government on the 13th December, 1968.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2)
AT DHANBAD**

PRESENT :

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE No. 126 OF 1967

In the matter of an industrial dispute under Section 10(1)(d) of the Industrial Disputes Act, 1947.

PARTIES :

Employers in relation to the Jealgora Colliery of Messrs East Indian Coal Company Limited. Post office Jealgora, District Dhanbad.

AND

Their workmen.

APPEARANCES :

For the employers: Shri S. S. Mukherjee, Advocate

For the workmen: Shri Prasanta Burman, Secretary, Khan Mazdoor Congress.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, 10th December, 1968

AWARD

The Central Government being of opinion that an Industrial dispute exists between the employers in relation to the Jealgora Colliery of Messrs East Indian Coal Company Limited, Post-office, Jealgora, District Dhanbad and their workmen by its order No. 2/65/65-LRII dated 19th March, 1966 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below :

SCHEDULE

"Whether the management of the Jealgora colliery of Messrs East Indian Coal Company Limited was justified in dismissing the following workmen with effect from the 20th January, 1964, by their letter dated the 16th January, 1964? If not, to what relief are these workmen entitled?"

Sl. No.	Name	Designation	E. B. No.
1	Scomani	M.C. Loader	7528
2	Chhota Ramdeo	do	12073
3	Mewa Lal	do	12424
4	Jadunandan Rajbhar	do	12101
5	Ganesh	do	12175
6	Kuleswar	do	15065
7	Doraj	do	92324
8	Kailash	do	15070
9	Sagina	do	92342
10	Nibbul	do	7635
11	Ramchandra	do	7737
12	Jagirdao	do	12380
13	Surat	do	91600
14	Seopujan	do	7362
15	Nanoo	do	93
16	Kishore	do	1398
17	Gobardhan	Prop. Mazdoor	15607
18	Chanderdeo	M. C. Loader	5168
19	Bishnath	do	5825
20	Bhikhi	do	90013
21	Bipal	do	12411
22	Hoo	do	12566
23	Rameshwar	Shal: Picker	15743

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 59 of 1966 on its file. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal. by

the Central Government by its order No. 8/23/67-LRU, dated 8th May, 1967. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 126 of 1967. Employers as well as the workmen filed their statements of demands.

3. The 23 affected workmen were employees at Jealgora Colliery of M/s. East Indian Coal Co. Ltd. (hereinafter referred to as the employers). The affected workman at Sl. Nos. 1 to 16 and 18 to 22 were M.C. Loaders, the affected workman at Sl. No. 17 was a Prop. Mazdoor and the affected workman at Sl. No. 23 was a Shale picker. It is not in dispute that in the early hours on 6th November, 1963 the workmen of 13-A seam and 13-B seam numbering about 40 or 50 surrounded Shri D. G. Reid, Agent and badly assaulted him with shovels, hurricane lanterns, stones, etc. causing simple and grievous injuries on his head and other parts of his body. In respect of the incident a first information report was sent to the police. The police investigated into the case, arrested some of the affected workmen and charge-sheeted them before the Munsif Magistrate, 1st Class, Dhanbad under Sections 147, 325 and 149 I.P.C. Through his judgment dated 25th August, 1965 the Munsif Magistrate acquitted all of them but convicted some of them finding them guilty under the same sections. In appeal the Sessions Judge, Dhanbad, through his judgment dated 8th June, 1966 acquitted 2 more of the accused. While they were being prosecuted before the Court of the Munsif Magistrate, the Manager of the colliery issued charge-sheets in respect of the same occurrence to several of the workmen, inclusive of the 23 affected workmen. Shri J. Sharan, Welfare Officer of the colliery held separate domestic enquiries in respect of the charge-sheets issued to the 23 affected workmen. During the enquiry he examined the same 4 witnesses, Sri Janeswar Singh, Sri Muslim Ansari, Sri D. B. Verma and Sri D. G. Reid, Agent in each of the enquiries. The Enquiry Officer submitted separate enquiry reports finding all the 23 affected workmen guilty of the charge. Accepting the finding the Chief Mining Engineer issued to each of the 23 affected workmen separate letters dated 16th January, 1964 dismissing them from service with effect from 20th January, 1964. These facts are not controverted. The case of the workmen is that the domestic enquiries were not proper, the findings were perverse, the enquiry officer was a witness for the prosecution in the criminal proceeding and also acted for the procurement of witnesses for the management with a view to getting the accused persons convicted and that there were wide variations between the two statements made by the witnesses one before the police and the other before the enquiry officer. The employers filed their statement pleading that the domestic enquiries were held against the affected workmen in accordance with the principles of natural justice, that the findings of the enquiry officer were proper and that the dismissal of the affected workmen in pursuance of the findings was justified. The workmen were represented by Shri Prasanta Burman, Secretary, Khan Mazdoor Congress and the employers by Shri S. S. Mukherjee, Advocate. On admission by the employers, Exts. W.1 to W.4 for the workmen and on admission by the workmen, Exts. M1 to M47 for the employers were marked. On behalf of the workmen 7 witnesses were examined and Exts. W.5 and W.6 were marked. The employer examined 2 witnesses and marked Exts. M48 to M103.

4. On behalf of the employers an objection was taken at the outset that the dispute involved in the reference was individual dispute and that the employers were not aware if the affected workmen were members of Khan Mazdoor Congress or of any union at all on or before 16th January, 1964. WW.1 to WW.9 are the affected workmen. They have in their evidence that all of them were members of Khan Mazdoor Congress since prior to 1964. WW.11 has filed an extract, Ext. W.6 from the membership registers of Khan Mazdoor Congress for the years 1963-64, 1964-65 and 1965-66 with reference to the 23 affected workmen. He also produced the membership registers in original. Nothing is elicited in the cross-examination to contradict the witness. This apart, Shri S. S. Mukherjee, the learned Advocate for the employers has not pressed the objection. Hence, the objection raised by the employers is over-ruled.

5. It is contended for the workmen that the employers acted in haste in proceeding with the domestic enquiries without waiting for the result of the criminal case pending in the Court of Munsif Magistrate, Dhanbad. I do not find any rule that the management were bound to wait for the result of the criminal proceedings and act in accordance with it. It is true that in respect of the same incident the case was proceeding in the Criminal Court while the affected workmen were being proceeded with with charge-sheets and domestic enquiries. I do not find any illegality or impropriety in the employers adopting the course. It is admitted that all the affected workmen were issued charge-sheets and they had submitted their explanations. Some of the affected workmen who have been examined before the Tribunal have deposed that they had not received notices of the enquiry or that no enquiries were held at all. This evidence, contrary to the statement of demands filed by the workmen is of no consequence. In the statement of demands

no objection was taken that the enquiries were held without notice to the affected workmen or that no enquiries were held at all. What was stated in the statement of demands was that the enquiries were not proper and that the enquiry officer was biased. The enquiry officer, M.W.1 has deposed categorically that he had held separate domestic enquiries in respect of the charge-sheets issued to the 23 affected workmen, that during the enquiries the affected workmen referred to at Sl. Nos. 2, 6, 9, 10, 11, 16 and 17 in the schedule to the reference were present and that in respect of the rest he had satisfied himself that they were served with notices of enquiries. He has also mentioned the fact in some of his enquiry reports. He has stated that some of the affected workmen present in the enquiries had signed their statements. The affected workman at Sl. No. 6 of the reference is examined as WW.6. He has conceded that he had received the notice of enquiry and after receiving the notice he had been to the enquiry officer. I have gone through the enquiry proceedings in respect of each of the 23 affected workmen carefully and found that one or the other of witnesses had tendered evidence involving the concerned workman in the assault alleged. On this evidence, however meagre it may be, there is no room to argue that the finding of guilt by the enquiry officer in each of the 23 enquiries was perverse. I do not see how the enquiry officer had contravened any principles of natural justice in conducting the enquiries. I also do not find any justification for comparing the evidence of the witnesses appearing before the enquiries with their statements given to the police or to the Magistrate. When the findings are not perverse I am not expected to go into appreciation of evidence and substitute my own conclusions to those of the enquiry officer. I also do not find any substance in the contention that the enquiry officer was biased. He appeared as a witness before the Magistrate for the prosecution because he had sent the first information report to the police in respect of the occurrence. He was not an eye-witness to the occurrence. There is absolutely no material to infer that the enquiry officer had acted for the procurement of witnesses for the management or that he was keen to get the affected workmen convicted in the Criminal Court. For these reasons, I find that the domestic enquiries held against the 23 affected workmen and the findings of the enquiry officer were proper. The dismissal of the affected workmen in accordance with the findings were quite justified. In this connection it must be remembered that the charge against the affected workmen was serious requiring a deterrent punishment.

6. I therefore, find that the management of the Jealgora Colliery of Messrs East Indian Coal Company Limited was justified in dismissing the 23 workmen referred to in the schedule of the Reference with effect from the 20th January, 1964, by the letter dated the 16th January, 1964 and consequently, none of them is entitled to any relief. The award is made accordingly and submitted under section 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO, Presiding Officer.

Central Govt. Industrial Tribunal (No. 2) Dhanbad.

[No. 2/65/65-LRII.]

New Delhi, the 24th December 1968

S.O. 58.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Hirakun Colliery, Post Office Nefuria, District Purulia, and their workmen, which was received by the Central Government on the 17th December, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE NO. 37 OF 1968

PARTIES :

Employers in relation to the Hirakun Colliery,

AND

Their workmen.

PRESENT:

Shri B. N. Banerjee—Presiding Officer.

APPEARANCES :

On behalf of Employers—Shri B. K. Lath, Labour Adviser.

On behalf of Workmen—Sri Proval Goswami, Secretary, Colliery Mazdoor Union.

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

By Order No. 6/63/68/LR-II, dated August 5, 1968, the Government of India, in the Ministry of Labour, Employment & Rehabilitation (Department of Labour and Employment), referred the following dispute between the employers in relation to the Hirakun Colliery and their workmen, to this tribunal, for adjudication, namely:

"Whether the management of Hirakun Colliery, Post Office Neturia, District Purulia was justified in dismissing the following five workmen with effect from the 11th May 1968? If not, to what relief are these workmen entitled?

1. Shri Dugai Majhi, Miner
2. Shri Mongal Majhi, Miner
3. Shri Makar Majhi, Miner
4. Shri Meghu Bauri, Trammer
5. Shri Babulal Bauri, Trammer"

2. The workmen were represented by a trade union known as Colliery Mazdoor Union (INTUC), which filed a written statement. The management also filed a written statement.

3. At the time of hearing, however, both the parties filed written terms of settlement and prayed that the reference may be disposed of in terms of the settlement.

4. Now that the dispute has been settled, on terms filed before this tribunal, which I find to be lawful terms of settlement, I make an award in terms thereof. Let the petition containing the terms of settlement form part of this award.

(Sd.) B. N. BANERJEE, Presiding Officer.

Dated, December 11, 1968.

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE No. 37 OF 1968

PARTIES:

Employers in relation to Hirakun Colliery.

AND

Their Workmen.

Petition for disposing of the Reference No. 37 of 1968 in accordance with the compromise detailed hereunder :

It is respectfully submitted that :

1. That to-day has been fixed for the final hearing of Reference No. 37 of 1968.
2. That in the meantime the parties have mutually settled the matter on the following terms :

Terms of Settlement

- (a) All the Five workmen mentioned in the terms of Reference are to be retrenched and they shall be paid retrenchment compensation on or before 31st December, 1968 after calculation of the same amount. The payment shall be made before the Assistant Labour Commissioner (C), Asansol.
- (b) That at the time of filling up the vacancies of miners and trammers in Hirakun Colliery, the management shall consider the case of re-employment of the five workmen involved in the present reference in consultation with the Manager of the Colliery.

It is therefore prayed that the above Reference be disposed of in accordance with the terms of settlement mentioned above.

And for this act of kindness, the petitioners will remain grateful.

B. K. LATH, Labour Adviser.

PROVAT GOSWAMI,
Secretary, Colliery
Mazdoor Union,
for workmen.

(Sd.) Illegible,
(For employers)

Dated, 11th December, 1968.

[No. 6/63/68-LRII.]

New Delhi, the 26th December 1968

S.O. 59.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Victoria West Colliery of Messrs New Beerbhum Coal Company Limited, Post Office Barakar, District Burdwan and their workmen, which was received by the Central Government on the 18th December, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE NO. 34 OF 1968

PARTIES :

Employers in relation to the Victoria West Colliery.

AND

Their workmen.

PRESENT :

Shri B. N. Banerjee—*Presiding Officer*.

APPEARANCES :

On behalf of Employers—Mr. D. Narsingh, Advocate.

On behalf of Workmen—Mr. Satyen Banerjee, Advocate.

STATE : West Bengal

INDUSTRY : Coal Mines,

AWARD

By Order No. 6/20/68-LRII, dated July 15, 1968, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred the following dispute between the employers in relation to the Victoria West Colliery of Messrs New Beerbhum Coal Company Ltd., and their workmen, to this tribunal, for adjudication, namely :

"Whether the demand of the Colliery Mazdoor Congress (HMS), Asansol for payment of 150% of the normal wages for work on Sunday to the Casual Wagon loaders of the Victoria West Colliery with effect from the 15th August, 1967, is justified?

2. If not, to what relief are the said casual wagon loaders entitled?"

2. A trade union of the name of Colliery Mazdoor Congress (HMS) filed a written statement on behalf of the workmen. In paragraphs 2 and 3 of the said written statement it was stated:

"2. That the management of Victoria West Colliery follow the certified standing order of the collieries as per which the employees defined in section 1(a) have been classed in 5 categories in section 2(f) namely Permanent, Probationer, Badli, Temporary and Apprentice.

3. That casual wagon loaders as referred to in the schedule of this reference fall under the category of permanent employees since they have been employed for unlimited period."

The grievance made in the written statement was that the casual wagon loaders were in the employment of the colliery for a long time but they were not made permanent. Although Sunday is admittedly the rest day for the colliery and although for working on the rest day other workmen of the colliery get 150% of their normal wages, it was alleged, such increased payment is not made to casual wagon loaders, even if they work on rest days. In paragraphs 10, 11 and 12 of the said written statement it was further stated:

- "10. That as per Joshi Agreement it has been recommended that if any workman works on Sundays he will be entitled to get 150% of the normal daily wages.
11. That the management with some ulterior motive of depriving these workers of their legitimate and legal dues have given them designation of 'Casual' wagon loaders but as a matter of fact such word casual does not find place in the standing order and hence they are to be taken as employees and more specially as permanent employees.
12. That as per provision of the standing orders these wagon loaders are entitled to get 150% of the normal wages for the work done by them on Sundays since they are doing such work on all the weeks."

The action of the management of the colliery was condemned as illegal, arbitrary and discriminatory, so far as casual wagon loaders were concerned.

3. There was a rejoinder filed by the employers in relation to the concerned colliery. In paragraphs 3 and 4 of the rejoinder it was stated:

- "3. It is submitted that the wagon loaders concerned are not the workmen of the management of the Victoria West Colliery but are casual workmen employed and paid wages and all other emoluments by the wagon loader contractor. The management is not responsible for the payment of their wages. Whenever the supply of wagons is such that the regular wagon loaders, who are regular workmen of the management, are not able to cope with the loading of the same, the wagon loading contractor is called upon to get such extra wagons loaded by his own employees. Such work, in the circumstances, is not regular and all his workmen do not get work every day but are employed by the contractor only as and when some wagons are entrusted to him for loading. Accordingly, they work only intermittently for three or four days in a week and sometimes work for even for a shorter period. They are, therefore, described as casual wagon loaders in the schedule to the present order of reference.
4. In the circumstances, the present reference as against the management of the Victoria West Colliery is bad in law as no relief can be granted to the workmen against the management. The Tribunal may, therefore, be pleased to declare accordingly."

I need not concern myself with the other paragraphs of the rejoinder because they merely deny and dispute the contentions raised in the several paragraphs of the written statement filed on behalf of the workmen.

4. The following facts were admitted before me in the course of hearing:

- (a) there were 98 non-casual wagon loaders, permanently employed by the employer colliery, who are paid extra wages for work on Sundays at the rate of 150% of their normal wages.
- (b) casual wagon loaders, who at the most number 60, when called to work, are not paid extra wages for working on Sundays.
- (c) casual wagon loaders work at piece-rates, that is to say, at the rate of Rs. 29.28 paise per wagon. Whether these piece-rates were paid to wagon loaders directly or through a contractor under whom the casual loaders worked, as asserted by the employer colliery, is point of hot dispute before me.

5. Mr. S. Banerjee, learned Advocate appearing for the trade union representing the workmen, in his fairness, submitted that if the casual wagon loaders were labourers under a contractor then they were not entitled to any wages from the employer colliery, far less extra wages for working on rest days as claimed. It is, therefore, necessary for me to examine the evidence and try to find out what sort of labourers the casual wagon loaders are.

6. The first witness examined on behalf of the workmen was C. N. Jha, Provident Fund clerk in the colliery concerned, who is also the Secretary of the Colliery Mazdoor Congress, local branch. In his examination-in-chief he stated:

"There are permanent wagon loaders in Victoria West colliery. The number of such workers would be about 90. There are wagon loaders whom the company has not declared permanent. Their number will be about 60. The other workers are not given work on all the days of the week. These workers present themselves every day for work and wait till wagons are supplied. After wagons have been distributed to regular permanent wagon loaders and it is found that some extra wagon loading jobs are still left, then some of these waiting labourers are provided with work. The system of employing other wagon loaders has been going on for the last two years. The other category of wagon loaders also work in Victoria colliery. In Victoria colliery as well the other category of wagon loaders are being designated as casual wagon loaders, in the same way as they are described in Victoria West Colliery. In Victoria West Colliery the wagon loaders are paid on piece-rate. In Victoria West Colliery one of the wagon loaders, Baso, pays wages to casual wagon loaders. The casual wagon loaders are also to work on Sundays. On Sundays also these casual wagon loaders are paid at the normal rate at Victoria West colliery. In Victoria colliery casual wagon loaders are also to work on Sunday. On Sundays, however, Victoria colliery casual wagon loaders are paid at the rate of 150% of normal wages. On Sundays, permanent wagon loaders in Victoria West colliery also are required to work. For working on Sundays, these permanent wagon loaders are paid extra wages. They are paid double their wages on Sundays. There are loading clerks who allot work to casual wagon loaders. Loading clerks are employed by New Birbhum Coal Company Limited. Loading clerks supervise the work of wagon loaders. The loading clerks also check the work of wagon loading."

In his cross examination he stated:

"I deny that casual wagon loaders are employed by a contractor named Sutarini Devi. I also deny that the wages of the casual wagon loaders are paid by Sutarini Devi. All that I know is that Baso Beldar makes payment to casual wagon loaders. I do not know from where he gets the money. Baso Beldar is a permanent wagon loader in Victoria West Colliery. I do not know whether Sutarini Devi gets the money from the company for payment of casual wagon loaders through Baso Beldar. I do not know whether or not Baso Beldar works as a representative of Sutarini Devi. I deny the suggestion that in Victoria colliery casual wagon loaders do not get 150% of their wages, for working on Sundays. I have information that they do get such extra wages."

The second witness examined on behalf of the workmen was Lakhan Ram, himself a wagon loader. In his examination-in-chief he said:

"Previously we used to receive weekly wages. Since last three months, we are being paid on monthly basis. The work of wagon loaders starts at 8 O'clock in the morning. We do not get our work on every day. We are sometimes called to work on Sundays. We are paid per wagon Baso pays wages to us. Baso is also a wagon loader like myself. The loading Babus supervise the work of loading and find out if shales have been loaded in the wagons. I know Sutarini Devi who is the widow of Jogeswar Sardar. I dispute the suggestion that we work not under the company but under Sutarini Devi."

In his cross-examination he further stated:

"I am a casual worker. At first work is distributed amongst the permanent wagon loaders and thereafter if extra wagons remain, such work is distributed amongst us, casual workers. When there is no wagon available and we are not given any work, we are not given any wages I do not know if on the demise of Jogeswar Sardar, contract for loading of wagons was given to Sutarini, the widow of Jogeswar Sardar. I do not know whether Sutarini Devi accepts money from the company and makes over to Baso Beldar for making distribution to casual wagon loaders. We are not workmen under the contractor. We are company's workmen. Baso distributes the money to us, casual labourers, in the office of the company."

On behalf of the employer colliery the first witness examined was Usha Ranjan Paul, Labour Relations Officer. In his examination-in-chief he stated:

"When after employment of permanent wagon loaders in loading wagons, it is found that some wagons are still left out, the Company informs the contractor to supply casual wagon loaders to load the remaining wagons. The casual wagon loaders are called either by the contractor or by her representative. The bill is made out by contractor's men, (Witness then says). The office makes out the bill according to the casual wagon loaders employed. (Witness then says). The contractor gives a 'Heesab' of quantum of work done. The office makes out a bill on the basis of the 'Heesab'. The money according to the bill is paid to the contractor. The contractor or her representative pays to the individual casual wagon loaders."

In his cross-examination he stated:

"I deny your suggestion that Sutarini Devi is not a contractor but only having a widow's pension from the company for services rendered by her husband. So far as I know, some of the works done by casual labourers, like measurement, etc., have to be supervised by loading Babu."

The other witness examined on behalf of the employer colliery was Nabani Gopal Bakshi, the Head clerk. He proved several important documents, namely:

- (i) Ext. 2, a circular from Superintendent of Accounts to all collieries under the management of Andrew Yule & Co. Ltd. asking them to send all applications for renewal of contracts for the quarter ending 31st December, 1967 to the office of the General Manager before first week of October, 1967.
- (ii) Ext. 3, letter from the Manager of Victoria West colliery asking for renewal of wagon loading contract in favour of Sutarini Devi and informing that 60 casual wagon loaders were working under her.
- (iii) Ext. 4, circular from the Superintendent of Accounts to all collieries under the management of Andrew Yule & Co. asking them to send all applications for renewal of contracts for the quarter ending 31st March, 1968 to the office of the General Manager by 23rd December, 1967.
- (iv) Ext. 5, letter from the Manager, Victoria West Colliery to the Superintendent of Accounts asking for renewal of contract in favour of Sutarini Devi.
- (v) Ext. 6, contract between Sutarini Devi and Victoria West Colliery, dated January 1, 1968.
- (vi) Ext. 7, contract, dated July 20, 1967, between Sutarini Devi and Victoria West Colliery.
- (vii) Exts. 8 to 8(F), debit vouchers in favour of the contractor Sutarini Devi for coal loading work.
- (viii) Ext. 9, chart showing the weekly attendance of casual wagon loaders of Sutarini Devi, contractor, during 19th August, 1967 to 17th August, 1968.

Witness Nabani Gopal Bakshi also stated that the different sums of money entered in the vouchers were all paid to Sutarini Devi and in token of receipt, Sutarini Devi put her thumb impression at the back of each voucher. He also proved two registers marked Ext. 10 and 10A which were attendance registers of casual labourers employed by Sutarini Devi. In his cross-examination this witness admitted:

"The loading clerks supervise the work of casual wagon loaders. Allotment of works to casual wagon loaders are also done by loading clerks. Their attendance is also kept by Company's Time-keeper. Loading clerks also check wagons loaded by casual wagon loaders. The loading clerks are in the employment of Victoria West Colliery. Smt. Sutarini Devi is still there as a contractor. She has now gone home. I deny your suggestion that Sutarini Devi is no contractor of our or that the casual labourers are directly employed by the company. I deny your suggestion that Ext. 2 to 10A have been prepared by the company in order to deprive the casual wagon loaders of benefits of extra wages."

7. Pitted against the mass of documentary evidence produced on behalf of the employer colliery, the oral evidence of two witnesses, examined on behalf of the workmen, pales into insignificance. It has not been shown that the documentary evidence was fabricated for the case, although a suggestion to that effect was at one stage thrown to one of the company's witnesses. But a mere suggestion is not proof and I ignore the suggestion.

8. Mr. Satyen Banerjee, learned advocate for the workmen, realised this difficulty and therefore wanted to raise a legal point in support of his argument. He submitted that merely if a person be called a contractor, that would not render him or her contractor. What he wanted to argue was that if Sutarini Devi did not satisfy the test of a contractor then the labourers were workmen of the employer colliery and there was no reason to discriminate between the non-casual wagon loaders and casual wagon loaders in the matter of wages for working on Sundays. In support of this argument he invited my attention to a decision of the Supreme Court in the case of *Shivanandan Sharma vs Punjab National Bank Ltd.*, (1955) 1 LLJ 688, in which Sinha, J., (as he then was) observed that though it was true that the treasurers had the fullest responsibility for the appoint-dismissal and payment of the salary of the cashiers and others assistants employed by the treasurers, still having regard to the fact that the appointment (of the cashier and other assistants) had to be approved by the bank and the treasurers could not continue to employ those workmen in whose fidelity and efficiency the bank had no confidence, such workmen must be regarded as employees of the bank only. If the treasurers' relation to the bank was that of servants to a master, simply because the servants were authorised to appoint and dismiss the ministerial staff, of the cash department, would not make the employees in the cash department independent of the bank. If a master employed a servant and authorised him to employ a number of persons to do a particular job and to guarantee their fidelity and efficiency for a cash consideration, the employees thus appointed by the servant would be, equally with the employer, servants of the master. He also invited my attention to another Supreme Court decision in *Dharangodhra Chemical Works Ltd. v State of Saurashtra* (1957) 1 LLJ 477, in which Bhagwati, J., observed:

"Learned Counsel for the appellants laid particular stress on two features in this case, which, in his submission, were consistent only with the position that agarias are independent contractors. One is that they do piece work and the other that they employ their own labour and pay for it. In our opinion neither of these two circumstances is decisive of the question. As regards the first, the argument of the appellants is that as the agarias are under no obligation to work for fixed hours or days and are to be paid wages not per day or hours but for the quantity of salt actually produced and passed, at a certain rate, the very basis on which the relationship of employer and employees rests is lacking, and that they can only be regarded as independent contractors. There is, however, abundant authority in England that a person can be a workman even though he is paid not per day but by the job. The following observation of Crompton, J., in *Sadler v. Henlock* (4 El and Bl 570, 578, 119 E.R. 209, 212) are pertinent in this behalf:

"The test here is, whether the defendant retained the power of controlling the work. No distinction can be drawn from the circumstances of the man being employed at so much a day or by the job. I think that here the relation was that of master and servant, not of contractor and contractee."

(See also *Blake v. Third*: (1863) 32 L.J. (Exchequer) 188; and Halsbury's 'Laws of England', Hailsman edition, Vol. 22, p. 119, Para 194, wherein it is stated that if a person is a worker and not a contractor, 'it makes no difference that his work is piece work').

As regards the second feature relief on for the appellants it is contended that the agarias are entitled to engage other persons to do the work, that these persons are engaged by the agarias and are paid by them, that the appellants have no control over them and that these facts can be reconciled only with the position that the agarias are independent contractors. This argument, however, proceeds on a misapprehension of the true legal position. The broad distinction between a workman and an independent contractor lies in this that while the former agrees himself to work, the latter agrees to get other persons to work. Now a person who agrees himself to work and does so work and is therefore a workman does not cease to be such by reason merely of the fact that he gets other persons to work along with him and that those persons are controlled and paid by him. What determines whether a person is a workman or an independent contractor is whether he has agreed to work personally or not. If he has, then he is a workman and the fact he takes assistance from other persons would not affect his status."

I do not understand how the aforesaid decisions help. The nature of supervision over labourers, called and employed by Sutarini Devi, for wagon loading, was limited to proper loading of wagons that is to say whether wagons were being fully loaded and whether shales and stones were being loaded in place of coal or were being mixed up with coal loaded. This is what has been stated by witness Nabani Gopal Bakshi. The keeping of attendance

register of contract labourers may be for the purpose of checking how many labourers were employed by the contractor. It does not appear that in the matter of selection or dismissal of casual wagon loaders the employer colliery had any hand. I do not, therefore, uphold the contention of Mr. Banerjee that, in law, the position of Sutarini Devi was not that of a contractor.

9. If the wagon loaders were workers of the contractor, there was no relationship of master and servant between the concerned colliery and the casual wagon loaders and they were not entitled to wages for less extra wages from the concerned colliery. All the liability of the concerned colliery was limited to payment of contractual dues to the contractor and nothing to the workmen.

10. Mr. Banerjee strongly contended that Baso was a workman under the colliery and he paid the wages to the casual wagon loaders. This argument overlooks the evidence given by witness no. 1 for the workmen, C. N. Jha to the effect that he was not aware whether Sutarini Devi got the money from the colliery for payment of casual wagon loaders or not, or whether Baso Beldar worked as a representative of Sutarini Devi. This argument also overlooks the evidence of Lakhan Ram who said that he did not know whether Sutarini Devi accepted money from the colliery and made over to Baso Beldar for making payment to casual wagon loaders. I do not, therefore, make much of this argument.

11. Mr. Banerjee lastly argued that Joshi agreement (Part of Ext. A) entitled all categories of surface workers excluding office and supervisory staff to payment of overtime for one and half time the normal rates. This argument overlooks the fact that this agreement, made in 1948, was superseded by the Standing Order which did not contain similar provisions. I have doubts whether Joshi agreement at all applied to contractor's labourers. I do not make much of this argument also.

12. In the result, all the arguments advanced on behalf of the workmen fail. I, therefore, hold that the demand of the Colliery Mazdoor Congress (HMS) for payment of 150 per cent of the normal wages for work on Sundays to casual wagon loaders of the Victoria West Colliery with effect from 15th August, 1967 was not justified. As such the casual wagon loaders are not entitled to any relief.

This is my award.

Sd./- B. N. BANERJEE, Presiding Officer.

Dated, 11th December 1968.

[No. 6/20/68-LRIL]

S.O. 60.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad, in the industrial dispute between the employers in relation to the Jamadoba Colliery of Messrs Tata Iron and Steel Company Limited, Jamadoba, Post Office Jealgora, District Dhanbad, and their workmen, which was received by the Central Government on the 18th December, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD.

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer

REFERENCE NO. 140 OF 1967

In the matter of an industrial dispute under Section 10(1) (d) of the Industrial Disputes Act, 1947.

PARTIES :

Employers in relation to the Jamadoba Colliery of Messrs Tata Iron and Steel Company Limited, Jamadoba, Post office Jealgora, District Dhanbad.

AND

Their workmen

APPEARANCES :

On behalf of the employers: Shri L. H. Parvatiyar, Legal Assistant.

On behalf of the workmen: Shri H. N. Singh, Vice President, Koyala Mazdoor Panchayet.

STATE: Bihar

INDUSTRY: Coal

Dhanbad, 11th December, 1968

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Jamadoba Colliery of Messrs. Tata Iron and Steel Company Limited, Jamadoba, Post office Jealgora, District Dhanbad and their workmen, by its order No. 2/63-66-LRII dated April 27th, 1966 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

"Whether the dismissal of Shri Bishnu Mahato, Ticket No. 23561, Underground Trammer, by the management of the Jamadoba Colliery of Messrs Tata Iron and Steel Company Limited with effect from the 8th December, 1965 was justified? If not, to what relief is the workman entitled?"

1. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 82 of 1966 on its file. Employers as well as the workmen filed their statements of demands. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 2/25/67-LRII dated 8th May, 1967. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 140 of 1967.

2. Shri Bishnu Mahato (hereinafter referred to as the affected workman) was an underground trammer in Jamadoba colliery of the employers. On 3rd May 1965 he met with an accident while on duty and sustained fracture of his right foot. He was sent to the hospital immediately. On discharge from the hospital he was examined by the Medical Board of the employers on 14th October 1965. The Medical Board directed him to re-appear before the Board after a month. Accordingly he appeared before the Board on 18th November 1965. On this occasion the Board found him fit for resuming his original job. Through the letter dated 23/25th November 1965 the employers directed the affected workman to resume his duties immediately. On 9th December 1965 the affected workman submitted an application to the Manager of the colliery stating that he was not yet fit to resume his original duty and that the management should be pleased to allow him to do such a job on surface that would not further injury his foot. At the same time he submitted one more application to the Chief Mining Engineer to the same effect. The Administrative Officer endorsed on the letter that it was not possible to give any light job and directed the affected workman to the Chief Medical Officer. The Chief Medical Officer examined the affected workman again on 30th November 1965, wrote back to the Chief Mining Engineer that the affected workman was found fit to resume duty. Again the Acting Chief Mining Engineer wrote to the affected workman a letter dated 10/13th December 1965 advising him to resume his original duty immediately. But the affected workman did not comply with the direction. The employers issued a charge-sheet dated 6th December 1965 to the affected workman, stating that he was absenting from duty from 23rd November 1965 without information or permission and on such, committed a serious misconduct under clause 19(16) of the Certified Standing Orders. No explanation was submitted to the charge-sheet and the employers issued a notice, held a domestic enquiry on 29th December 1965 and issued a letter dated 3rd December 1965 dismissing the affected workman from service on the report of the enquiry officer dated 30th December 1965. These facts are not in dispute. The case of the workmen is that the domestic enquiry was held without proper notice to the affected workman, that the charge against the affected workman was not at all proved to any extent and that the dismissal of the affected workman in pursuance of the finding was illegal, irregular and high handed. The employers filed their written statement stating that inspite of his being quite fit to resume his original duty the affected workman deliberately absented from duty, and that the domestic enquiry held against the affected workman was proper and that dismissal of the affected workman was quite justified. The workmen were represented by Shri H. N. Singh, Vice President, Koyala Mazdoor Panchayet and the employers by Shri L. H. Parvatiyar, Legal Assistant. On admission by the employers Exts. W.1 to W.8 were marked for the workmen and on admission by the workmen, Exts. M1 to M11 were marked for the employers. On behalf of the workmen 2 witnesses were examined and Exts. W9 and W10 were marked. The employers also examined 2 witnesses and marked Exts. M12 to M14.

4. The only question for consideration is whether the domestic enquiry held against the affected workman was proper, the finding of the enquiry officer correct and the dismissal of the affected workman in pursuance of the finding legal and justified. The

Charge-sheet issued to the affected workman is Ext. M4 in which it was alleged that the affected workman was absenting from duty from 23rd November 1965 without information and permission and as such he had committed a serious misconduct under clause 19(16) of the Certified Standing Orders. The Certified Standing Orders are Ext. M9. Under clause 19(16) continuous absence without without permission and without satisfactory cause for more than 10 days is a misconduct for which an employee can be suspended, fined or dismissed. The charge-sheet is said to have been sent to the home address of the affected workman and the affected workman, WW.1 says that he did not receive it. The notice of enquiry is Exts. M6. This notice also is said to have been sent to the home address of the affected workman. The affected workman, WW.1 says that he received the notice at 4 P.M. on 29th December 1965 while the enquiry was held on the same day. No acknowledgement in respect of the notice is produced, but the receipt issued by the Post office in token of having received the letter for registration is produced and it is Ext. M7. The stamp on the receipt, Ext. M7 shows the dated 27th December 1965. It means that the letter was registered on 27th December 1965 though it was dated 23rd December 1965 and in view of the fact that it was sent to the village address of the affected workman it is not improbable that the affected workman received it at 4 P.M. on 29th December 1965, as stated by him on oath. No material is brought on record to show that the notice was received by the affected workman earlier. It follows that the affected workman did not receive the notice in time and as such he had no opportunity to participate in the enquiry. The enquiry officer is not examined. The solitary witness examined in the enquiry is produced before the Tribunal as MW. 2. He is a time keeper in the colliery. Except deposing that the affected workman did not go underground for his duty, the evidence of the witness does not reveal anything further. Basing on the evidence of the solitary witness the enquiry officer submitted his report, Ext. M14 holding the affected workman guilty of the charge. The report, Ext. M14 does not even show that the enquiry officer had even seen the two medical reports, Exts. M1 and M2. Absence from duty as an underground trammer from 23rd November 1965 is admitted by the affected workman. As I have already pointed out, the enquiry officer had to find that the absence was without satisfactory cause. From the very beginning the affected workman was pleading that the injury sustained by him had not completely healed and as such, he was unable to resume his duty. So, the enquiry officer was to be satisfied that the plea of the affected workman was wrong and that his wound had completely healed up. To this extent, there was absolutely no evidence before the enquiry officer. Consequently, the finding is perverse. Now I have to see if the evidence brought before the Tribunal shows that the plea of the affected workman was wrong. It is an admitted fact that the affected workman had sustained fracture of his right foot on 3rd May 1965 and was admitted to the hospital. More than 5 months later he was examined by the Medical Board on 14th October 1965 and the certificate issued by the Board is Ext. M1. This certificate also shows that XRay of right foot showed fracture of recks second, third, fourth and fifth metatarsal bones. As per the certificate the affected workman was directed to re-appear before the Board after a month. The affected workman was again examined by the Medical Board on 18th November 1965 and the report is Ext. M2. This time the Medical Board found that the affected workman was fit to resume his original job. The Chairman of the Medical Board, Dr. A. K. Bhattacharjee is examined as MW. 1. He is well acquainted with the duties of an underground trammer to which category the affected workman belongs. He had been into a mine on several occasions. According to him an underground trammer has to push the tubs on the rails walking in between the rails, while pushing the tubs on a gradation the underground trammer has to put pressure on his both legs and between the rails the underground trammer has to walk on the packed wooden sleepers. Admittedly the affected workman was not fit to resume his duty as an underground trammer from 3rd May 1965 to 14th October 1965 when the Medical Board examined him and issued the certificate, Ext. M1. That is the reason why the affected workman was directed to appear before the Board a month later. On 18th November 1965 the Medical Board found the affected workman fit to resume his duty as an underground trammer. The Tribunal is entitled to know on what grounds the Medical Board found the affected workman fit for his duty within a month when he was unfit for more than six months. The certificate, Ext. M2 does not mention any such ground. The Chairman of the Medical Board, MW.1 has pointed out that in the certificate, Ext. M1 there was reference to the XRay report stating the fracture of recks second, third, fourth and fifth metatarsal bones. But no such reference is there in Ext. M2. No XRay report was consulted before issuing the certificate, Ext. M2, on 18 November 1965. MW. 1 stated that no XRay was taken before issuing Ext. M2. He states categorically that he did not remember to have seen any XRay report in respect of the injury after issuing Ext. M1 on 14th October 1965. He also concedes that in Ext. M2, the certificate dated 18th November 1965, the description of the fracture is not correctly mentioned. He also admits that in Ext. M2 union of the fractured bones are not mentioned. Then on what ground could the Medical Board opine that the fractured bones were united? Even if the fractured bones are assumed to have been united the possibility of the patient feeling pain owing to several reasons

cannot be ruled out. The witness, MW. 1 also concedes that even if the fractured bones are assumed to have been united the patient occasionally feels pain for which he has to carry on treatment. On this material brought before me I cannot agree that the affected workman was completely cured and was quite fit to discharge his duties as an underground trammer on 18th November 1965 when Ext. M2 was issued or at any time thereafter. The witness MW. 1 says that he had examined the affected workman on 30th November 1965 and issued Ext. M12. In this respect also he does not mention what examination he had conducted to arrive at the conclusion that the affected workman was fit to resume duty. It emerges from the evidence on record that the domestic enquiry was held without proper notice to the affected workman, that the finding of the enquiry officer was perverse and that the employers failed to bring before the Tribunal sufficient evidence to convince it that before the affected workman was dismissed from service he was fit to resume his duty as an underground trammer but deliberately absented himself from duty from 23rd November 1965. Consequently, the dismissal order cannot be upheld. Regarding the relief to the affected workman it is obvious that he requires to be treated as sick, as he had been from 3rd May 1965, the day of the accident, till he becomes fit to resume his original duty or his services are terminated in accordance with law.

5. In the statement filed by them the employers had pleaded that Koila Mazdoor Panchayet was not a representative nor recognised union of the colliery. But WW2, the Secretary of Koila Mazdoor Panchayet has in his evidence that the Panchayet is having a branch at the colliery. He has proved the counterfoil of receipt, Ext. W9, dated 1st February 1965 relating to the affected workman. No attempt is made by the employers to rebut this evidence. Hence, the objection is over-ruled.

6. I, therefore, hold that the dismissal of the affected workman, Shri Bishnu Mahato, Ticket No. 23561, Underground Trammer, by the management of the Jamadoba colliery of Messrs Tata Iron and Steel Company Limited with effect from the 8th December, 1965 was not justified and consequently, he is entitled to his wages and other emoluments as a sick person till he becomes fit to resume his original duty or his services are terminated in accordance with law. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

Sd./- N. VENKATA RAO, Presiding Officer,
Central Government Industrial Tribunal, (No. 2) Dhanbad.
[No. 2/63/66-LRII.]

New Delhi, the 27th December 1968

S.O. 61.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Sripur Collieries, Post Office Kalipahari, District Burdwan and their workmen, which was received by the Central Government on the 20th December, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE No. 23 OF 1968

PARTIES :

Employers in relation to the Sripur Collieries,
AND
Their workmen.

PRESENT:

Shri B. N. Banerjee—Presiding Officer.

APPEARANCES :

On behalf of Employers—Mr. D. Basu Thakur, Advocate.
On behalf of Workmen—Mr. Satyen Banerjee, Advocate.

STATE : West Bengal

INDUSTRY : Coal Mines.

AWARD

By Order No. 6/21/68-LRII, dated April 6, 1968, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred the following dispute between the employers in relation to the Sripur Collieries and their workmen, to this tribunal, for adjudication, namely:

"Whether the action of the management of the Sripur Collieries, Post office Kalipahari of Lodna Colliery Company (1920) Limited, in refusing to designate

the undermentioned 33 daily rated Basket Counters as Pit Munshis and in not placing them in Grade III, is justified?

1. Shri Salig Ram Singh
2. Shri Shew Shankar Singh
3. Shri Hari Sharan Sukul
4. Shri Bateshwar Dayal Pandit
5. Shri Tej Bahadur Singh
6. Shri Rang Bahadur Singh
7. Shri Ram Bahadur Singh
8. Shri Dal Bahadur Singh
9. Shri Samser Singh
10. Shri Ram Narain Singh
11. Shri Babai Singh
12. Shri Surj Narain Singh
13. Shri Uma Shankar Sharma
14. Shri Sukhapal Singh
15. Shri Ram Naresh Singh
16. Shri Ran Ber Singh
17. Shri Lachman Saw
18. Shri Jagar Nath Tari
19. Shri Raja Ram Kar
20. Shri Biswanath Pande
21. Shri Bharti Ojha
22. Shri Jagendra Ojha
23. Shri Hamuman Ojha
24. Shri Ram Darsh Ojha
25. Shri Asthobhuja
26. Shri Laxami Singh
27. Shri Sarda Singh
28. Shri Ram Lal Singh
29. Shri Bhagan Prasad
30. Shri Jagan Prasad
31. Shri Madha Panre
32. Shri Nand Lal
33. Shri Ram Brach Yadav

If not, to what relief are the concerned workmen entitled?"

A trade union, known as Colliery Mazdoor Congress (HMS), filed a written statement on behalf of the workmen. In paragraphs 5 and 6 of the written statement, it is stated:

- "5. That there are about 33 such workmen and they are designated as basket counters by the management of the said Colliery, although workmen doing identical jobs on tubs are designated as Munshis or Level Munshis.
6. That in no other colliery in the Asansol coal-field area such designation of basket counter is in use."

The written statement thereafter refers to the award by the All India Industrial Tribunal (Colliery Disputes), commonly known as Mazumdar award, as modified by the Labour Appellate Tribunal and states in paragraph 8 of the written statement:

- "8. That the said designation of 'Basket counters' do not appear in the said Mazumdar Award. The designations of Pit Munshis, Pit Sarkar, Tub-checker, Tub Receiver and Traffic Munshis appear in the said Award. These different designations are all put in Grade III of the Clerical grade in the said Award in view of the essential clerical nature of the jobs."

I need refer to two more paragraphs of the written statement, namely paragraphs 12 and 17:

- "12. That the job and duties of the said "Basket Counters" are identical to those of Pit Munshis etc. The job of a "Basket Counter" requires some degree of literacy and is essentially that of a clerical nature.

* * * * *

17. That when the Recommendations of the Wage Board came into operation the management of Sripur Colliery in an arbitrary and capricious manner has placed the said "Basket Counters" in category II of manual workmen and thus continuing to deprive the said workmen their due wage scale."

In paragraph 21 of the written statement, the action of the management in respect of the concerned workmen was condemned as *malafide*, arbitrary and discriminatory.

3. On behalf of the employers there was a written statement filed. In paragraphs 7 and 8 of the said written statement it was stated:

"7. That the recitals in para 5 of the W.S. of the C.M.C. are not all correct. The designation of basket counters in this management is running since 1956/57. Basket counters do not do identical jobs which are done by Munshis. When the Mazumdar Award came into force the designation of basket counter was put in by negotiating with recognised union as the job description given by the said award did not mention the said nature of job anywhere in their award.

8. That the correctness of the recitals in para 6 of the W.S. of the C.M.C. is not known to this humble party and the C.M.C. is to prove that."

In respect of paragraph 8 of the written statement, filed on behalf of the Colliery Mazdoor Congress, reference was invited to the Mazumdar Award itself. So far as paragraph 12 of the written statement filed by the Colliery Mazdoor Congress was concerned, the allegations were traversed in paragraph 12 of the written statement in the following language:

"12. That the management of the instant colliery never denied these 'Basket Counters' their proper wages. They cannot claim clerical grade. According to the Mazumdar Award, Basket Counters as they do their job as modified by L.A.T. were placed in category III and after the Wage Board recommendation they are placed in category II and placed correctly in accordance with the duties discharged by them. *** "

In paragraph 18 of the written statement of the employers, it was stated:

"18. That the recitals in para 17 of the W.S. of the C.M.S. are not correct. These 'Basket Counters' are manual workmen and they have got nothing to do with the clerical job. The management did not want to deprive any body of its legitimate dues."

The allegations in paragraph 21 of the written statement filed by the Colliery Mazdoor Congress were traversed in paragraph 22 of the employer's written statement in the following language:

"22. That the recitals in para 21 of the W.S. of the C.M.C. are not correct. The action of the management is justified in law and fact. Out of 33 basket counters some are illiterate and some know little bit of alphabets. Basket Counter's job does not warrant any special skill or any other experience of the job of clerical nature."

I need refer to two other paragraphs of the written statement of the employers, namely, paragraphs 23 and 24 which are as follows:

"23. That to determine the fixations of wage differentials which lead to categorisation, certain factors are to be taken into account.

- (1) Degree of skill.
- (2) Strain of work.
- (3) Experience involved.
- (4) Training required.
- (5) Responsibility undertaken.
- (6) Mental and physical requirements.
- (7) Disagreeableness of the task.
- (8) Hazard attendant on the work.
- (9) The fatigue involved.
- (10) Minimum education required.

24. In each conveyor belt section an underground munshi is deputed to perform the duties of supervision of loaded tubs distribution of tubs according to the number of baskets filled in and dropped on the belt by individual loaders placed at belt sections. As such the duties of an Underground Munshi are performed by the aforesaid section munshis and there is no more scope for the Basket counters to perform the duties of the Underground Munshis but to assist the Underground Munshis in dividing the amount of work performed by each individual loader by furnishing information of the number of baskets carried by individuals. It reveals that the said basket counters are only engaged in counting the number of baskets carried by individual loaders and record the same against individual loaders. The job description of the underground munshi clearly states that he is to do many responsible jobs which are not performed by the Basket Counters. That the C.M.C.

(H.M.S.) submitted that the job of a Basket Counter is to count and ensure proper loading. It is submitted that Basket Counters count the number of baskets placed by a loader just to satisfy that 28 baskets make a tub. If a loader places less than 28 baskets he is asked to complete the tub by placing the deficit. No literacy is required in this job of counting. Even an illiterate man can at least do the job of counting."

4. This is in substance the pleading in the case, which I need to take into consideration.

5. Mr. Satyen Banerjee, learned Advocate appearing for the trade union of the workmen, invited my attention to Appendix 16, page 113 of the Award of the All India Industrial Tribunal (Colliery Disputes Volume II), and submitted that under the afore-said award pit munshis were placed in grade III. About this there is no dispute. The award *ex-facie* shows that pit munshis were grade III workmen. According to Mr. Banerjee, pit munshis and basket counters both did the same kind of work and there was no reason to designate some workmen as pit munshis and place them in grade III and others as basket counters and place them in lower grade. The other branch of his argument was that the workmen, who are now designated as basket counters, were originally designated as pit munshis or munshis and were thereafter re-designated as basket counters only with the object of depriving them of their proper wages.

6. I propose to take up the last branch of Mr. Banerjee's argument first of all. In support of this branch of his argument, Mr. Banerjee produced before me two identity cards marked Exts. 2 and 2(a) and Exts. 3 and 3(a). Exhibits 2 and 2(a) are identity cards issued to a workman of the name of Salig Ram Singh, who is worker No. 1 mentioned in the schedule to the order of Reference. It appears from Ext. 2 that he was originally designated as "level munshi" but was later on designated as basket counter. Salig Ram gave evidence before this tribunal. In his examination in-chief he admitted that the word "level munshi" was the same thing as the word basket counter. If that is so, then it is not understandable how the change of designation was detrimental to the interest of the worker. Faced with this difficulty, Mr. Banerjee produced another set of identity cards marked Exts. 3 and 3(a). This set of identity cards was issued to a workman of the name of Naran Singh. In the original identity card his designation was said to be that of a munshi. In subsequent identity cards, his designation was said to be that of a basket counter. Naran Singh is not a workman named in the order of reference. Naran Singh was not cited as witness to explain why and how he was demoted from the position of a munshi to that of a basket counter. There may have been reasons for that. In the absence of such reasons, I cannot make much of this set of identity cards and this is all the more so because Naran Singh is not one of the concerned workman. He does not appear to have any grievance himself and that is speaking. I, therefore, over-rule the argument of Mr. Banerjee that the concerned workmen were originally designated as munshis or pit munshis and thereafter were redesignated as basket counters, with the unholy purpose of depriving them of their just wages.

7. I now take up for consideration the first point argued by Mr. Banerjee, namely, that work of pit munshis and the work of basket counters were of the one and the same nature. In support of this case, reliance was at first placed on the evidence of witness No. 1 for workmen, named Mahender Singh, who is the Assistant Secretary of the Colliery Mazdoor Congress. According to this witness, he has knowledge about collieries belonging to the Bengal Coal Company, The Equitable Coal Co. and the Bird & Co., but he says that he has never seen any category of employees designated as basket counters in any colliery excepting at Sripur colliery. The next witness who deposed on this point is witness No. 2 for the workmen named Salig Ram Singh. In his examination in-chief he said :

"There are about 30 or 31 basket counters working at Sripur colliery. There are workmen who are known as Pit Munshis. There are about 35 or 36 Pit Munshis working at the Sripur colliery. There is no difference between the work done by Pit Munshis and work done by the Basket counters. The Basket counters now get weekly wages. Basket counters are now in category II. Pit Munshis are however placed in grade III. Pit Munshis get Rs. 200/- to Rs. 230/- per month. The 'Basket Counters' get at the maximum Rs. 30.80 paise per week. There are one or two matriculates amongst Pit Munshis. Amongst Basket counters also there are two or three, who are matriculates. Rana colliery is almost adjacent to Sripur colliery. They may be separated by about 100 to 150'. Rana colliery and Sripur colliery are both owned by the same company. In Rana colliery there is no category known as Basket counter. There are workmen to do the same kind of work at Rana colliery as we do at Sripur colliery. Those workmen are known as Munshis at Rana colliery. The

work of basket counters consist in noting down the work done by loaders and in making report."

In his cross examination, however, he stated:

"I have never worked at Rana Colliery. Attached to each conveyor there is a Munshi, a number of basket counters and the loaders to load coal on conveyor belt. Loaders do twofold work, some load the baskets and some put coal from the basket on the conveyor belt. Basket counters keep account of baskets of coal thrown on the conveyor belt by the loaders. 38 tokris or baskets make one tub. We keep account of a number of tokris loaded by each loader. In different collieries, the same type of work is done by basket counters. Conveyor belt fills up the tubs. The underground Munshis put numbers on loaded tubs. After my duty hours are finished, I make out a report and submit the report in the office. Reports are not written out on any particular form but are made out on blank papers. Reports are submitted to clerks in the office, for example, C. P. Singh and another new Babu who sits by his side. If the underground or the Pit Munshi be available, the report is made over to him, otherwise the report is made over to the office. In the report we note down the names of loaders and also the number of tubs loaded. The underground munshis direct which basket counter is to attend to which section for work. The basket counters put the requisite number of loaders in each section. * * * * * The underground munshi stays to the tub end side of the conveyor. The basket counters keep attendance of loaders. (Shown an attendance register). These attendance registers are written out by basket counters and the Munshi puts his signature on it. This book does not contain any handwriting of any basket counter. It does not also contain the handwriting of myself. This book has been written out by Pit Munshis (Register marked Ext. B)."

As against the oral evidence adduced on behalf of the workmen, the employers examined Shew Dutt Singh, an underground munshi. In his examination in-chief he stated:

"Then we place 'basket counters' at different places where there are coal heaps and where baskets are loaded. The basket counters count the baskets loaded. I remain present at the tub end side of the conveyor. After the loadings are complete, the basket counters hand over to me slips on which count of baskets loaded have been kept. Then the figures are verified from the loaders and then noted by me on my note book. (The witness produces a note book and says). This is the note book in which I finally note down the figures. The entire book is in my handwriting (Marked Ext. C). It is part of my duty to see that tubs are properly loaded and not underloaded. The 'basket counters' do not submit any separate report excepting the slips they submit to munshis. I keep the attendance of loaders myself and so do the other munshis. (Shown Ext. B). The book bears my signature on each page. (Shown Ext. A). Measurement slips are filled up by us munshis. These forms are still in vogue. Apart from keeping count of baskets, the basket counters do not do any other work. In the Munshi office the munshis make report of the calculation for the purpose of wage calculation."

In his cross-examination he said:

"Whether baskets are being fully loaded or underloaded are seen by the 'basket counters'. I deny your suggestion that I do not go in my section and generally stay at my place. I dispute your suggestion that I do not take down the names of loaders and also the number of tubs. 'Basket counters' prepare the slips containing the names of loaders and number of baskets filled. I have not brought the slips submitted by basket counters."

Ext. B spoken of both by employer's witness No. 1 and by workmen's witness No. 2 is the Register of work done by time/piece workers in form IVA. Admittedly this book was note written by any basket counter but was entirely written by pit munshis as stated by the witness No. 2 for the workmen. Witness No. 1 for the employers claimed to have written entirely of the book, Ext. B, by his own hand and also claimed to have signed on each page. Ext. C is the note book prepared by employer's witness No. 1 from slips supplied to him by basket counters and according to the evidence of this witness the figures represented those on the slips supplied by basket counters after verification from the loaders. Thus, the evidence adduced on behalf of the employers is supported by documentary evidence and I am prepared to believe in the evidence of Shew Datt Singh,

witness No. 1 for the employers in preference to the evidence given by Salig Ram Singh, witness No. 2 for the workmen. If I rely on the evidence of Shew Datt Singh, then I have to hold that the work of basket counters and of munshis are not of the same type. For the reasons stated above, I over-rule the argument of Mr. Banerjee that because both basket counters and pit munshis do the same type of work, basket counters must not be differently designated and differently paid.

8. Faced with this difficulty, Mr. Banerjee made a little departure from the argument as originally indicated and submitted that work done by basket counters and pit munshis was clerical work and both should be placed in the clerical grade and paid accordingly. According to Mazumdar award clerks were either in grade I or in grade II or in grade III. Mr. Banerjee argued that the basket counters should be placed in grade III, the lowest of the clerical grades. This argument is interesting but does not stand ultimate analysis. It was observed by a single Judge of the Calcutta High Court in the case of *Workmen of Macfalans & Co. Ltd. vs. Fifth Industrial Tribunal and others* (1964) II LLJ 556(558):

"An officer is generally invested with power of supervision and control. Clerical work, on the other hand, implies stereotyped work, without, power of control or dignity of creativeness."

In other words, both manual as well as clerical works, in the sense in which those terms have been used in Section 2(s) of the Industrial Disputes Act, 1947, cover more or less routine works, skilled or otherwise, which do not require any amount of initiative in its performance, and the employees who are entrusted with such works are not required to do the duties of a supervisory or controlling nature. Now, basket counters, according to the evidence in this case, are entrusted with stereotyped work, without power or control or dignity of creativeness. They may have to keep certain notes of number of baskets loaded per loader but the main work of writing out attendance registers and noting the quantum of work done by each loader rests with munshis and not with basket counters. They may be merely 'counters' or 'tellers' to count by visual observation and keep a note of what they see, for their own purpose. The work has little element of clerical or desk work. The work has little element of clerical or desk work and is mostly field work. I am reluctant to characterise the work as clerical work. I, therefore, over-rule this argument of Mr. Banerjee as well.

9. The last disparate argument of Mr. Banerjee was that 'Basket Counters' being an unknown category in Mazumdar Award should not be allowed to remain. This argument overlooks the provisions in paragraph 574 of the Award, in which it was admitted that the categorisation, as in the Award, did not cover all the jobs in the colliery and therefore it was recommended that collieries should fit in the jobs into suitable places depending on the nature of the work. That is what appears to have been done, according to paragraph 7 of the employer's written statement.

10. In the result, all the arguments of Mr. Banerjee fail. I, therefore, hold that the 33 daily rated basket counters mentioned in the schedule to the order of reference are not entitled to be designated as pit munshis and as such not entitled to be placed in grade III. Therefore, the workmen are not entitled to any relief.

This is my award.

Sd/- B. N. BANERJEE,

Presiding Officer.

[No. 6/21/68-LRH.]

Dated, December 16, 1968.

ORDERS

New Delhi the 24th December 1968

S.O. 62.—Whereas an industrial dispute exists between the management of Pench Valley Coal Company Limited and the Amalgamated Coalfields Limited, Post Office Parasea, District Chhindwara (Madhya Pradesh) and their workmen represented by the Madhya Pradesh Koyala Khadan Mazdoor Sangh, Post Office Chandametta, District Chhindwara (Madhya Pradesh);

And whereas the said employers and the workmen have, by a written agreement, in pursuance of the provisions of sub-section (1) of section 10A of the Industrial Disputes Act, 1947 (14 of 1947), agreed to refer the said dispute to the arbitration of the person specified therein, and a copy of the said agreement has been forwarded to the Central Government;

Now, therefore, in pursuance of the provisions of sub-section (3) of section 10A of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the said arbitration agreement, which was received by it on the 18th December, 1968.

INDUSTRIAL DISPUTES CENTRAL RULES 1957

FORM 'C'

(See rule 6)

Agreement

(Under Section 10A of the Industrial Disputes Act, 1947)

BETWEEN

Name of Parties :

Representing Employers :

1. Shri Asa Singh,
Asst. Chief Mining Engineer,
The Pench Valley Coal Co. Ltd.,
The Amalgamated Coalfields Ltd.,
Managing Agents : Shaw Wallace & Co. Ltd.,
P.O. Parasia, Dist. Chhindwara, M.P.
2. Shri V. M. Thakraney,
Chief Personnel Officer,
Shaw Wallace & Co. Ltd.,
Parasia, Dist. Chhindwara, M.P.

Representing Workmen

1. Shri V. N. Dutta,
General Secretary,
M. P. Rashtriya Koyala Khadan Mazdoor Sangh (INTUC),
Chandametta.
2. Shri G. C. Bhattacharya,
Secretary,
M. P. Rashtriya Koyala Khadan Mazdoor Sangh (INTUC),
Chandametta.

It is hereby agreed between the parties to refer the following Industrial Dispute to the Arbitration of Shri S. M. Dikhale, Ex-Regional Labour Commissioner, Government of India.

- (i) Specific matter in dispute : In terms of memorandum of Settlement dated 16th October 1968 (copy enclosed) (Annexure 'A') in form 'H' of Industrial Disputes Rules 1957 which terms of reference is as under :

"Whether the management of the Pench Valley Coal Co. Ltd. and The Amalgamated Coalfields Limited are capable of paying variable Dearness Allowance at a rate more than 0.78 Paise per day per worker with effect from 1st November 1968 within the amount of increase of Rs. 4/- per tonne in the price of coal allowed to them for purposes of implementation of the recommendations of the Wage Board as accepted by the Government."

- (ii) Details of the parties to the dispute including the name and address of the establishment of undertaking involved :

The Amalgamated Coalfields Ltd., and
The Pench Valley Coal Co., Ltd.
P.O. Parasia, Dist. Chhindwara, M.P.

- (iii) Name of Unions, if any, representing the workmen in question :

(M. P. Rashtriya Koyala Khadan Mazdoor Sangh (INTUC) Chandametta.

- (iv) Total Number of workmen employed in the undertaking affected—9234.

- (v) Estimated Number of workmen affected or likely to be affected by the dispute—9234.

We further agree that the decision of the Arbitrator shall be binding on us.

The Arbitrator Shri S. M. Dikhale shall make his award within a period of 6 weeks from the time the reference is made under Section 10A of the Industrial Disputes Act, or within such further time as is extended by mutual agreement between us in writing. In case the award is not made within the period aforementioned, the reference to

arbitration shall stand automatically cancelled and we shall be free to negotiate for fresh arbitration.

Signature of Parties

Representing Employers :

1. (Sd.) Illegible.
2. (Sd.) Illegible.

Representing Workers :

1. (Sd.) Illegible.
2. (Sd.) Illegible.

Witnesses :

1. (Sd.) Illegible.
2. (Sd.) Illegible.

Parasia;

Date : 12-12-1968.

ANNEXURE 'A'

FORM 'H'

(See Rule 58)

Memorandum of Settlement

Representing Employers:—(1) Mr. Asa Singh, Assistant Mining Engineer, Shaw Wallace & Co. Ltd., Parasia.

(2) Mr. V. M. Thakraney, Chief Personnel Officer, Shaw Wallace & Co. Ltd., Parasia.

Representing workmen:—(1) Dr. (Mrs.) Seeta Parmanand, President, M. P. Rashtriya Koyala Khadan Mazdoor Sangh (INTUC), Chhindawar.

(2) Shri V. N. Dutta, General Secretary, M. P. Rashtriya Koyala Khadan Mazdoor Sangh (INTUC), P.O. Chandametta, Dist. Chhindwara.

(3) Baldeo Prashad Sharma, Vice President, M. P. Rashtriya Koyala Khadan Mazdoor Sangh (INTUC), Chandametta.

Short Recital of the Case

Under the recommendations of the Central Wage Board for Coal Mining Industry set up by the Government of India, Ministry of Labour, Employment and Rehabilitation under their Resolution No. WB-16(1)/62 dated 10th August, 1962, the scheme for Variable Dearness Allowance was recommended as under *vide* para 27 of Chapter VII of the recommendations:—

"For every point's rise over the index number 166, to which our Wage structure is linked, the Variable Dearness Allowance shall be 3 paise per day. The method of calculation of the Index shall be on the basis of the average six months, i.e. from January to June and July to December in each year and the adjustment will be made on 1st October and 1st April, each year respectively as at present. If there are fractions in the average, the next higher integer will be taken."

This recommendation was accepted by the Government of India under their Resolution No. WB 16(57)/66 dated 21st July, 1967.

The M. P. Rashtriya Koyala Khadan Mazdoor Sangh (INTUC), Chandametta, Dist. Chhindwara, is the representative union of coal mines in Chhindwara district and most of the employees employed in the coal mines of the Pench Valley Coal Co. Ltd. and the Amalgamated Coalfields Ltd. are members of this union. This union represented to the management of the above companies under their various letters, lastly under their letter

No. INTUC/59/68/527 dated 27th May, 1968 that in accordance with the above-mentioned recommendations of Variable Dearness Allowance, employees of the mines of the above companies should be paid Dearness Allowance as under:—

- | | |
|--|-----------------------------|
| (a) From August 15 to September 30, 1967 | .. 0.78P per day per worker |
| (b) From October 1, 1967 to March 31, 1968 | .. 1.11P per day per worker |
| (c) From April 1, 1968 | .. 1.47P per day per worker |

The management expressed that due to implementation of all other recommendations of the Wage Board except current variable Dearness Allowance, impact on their cost could not be covered by the increase of Rs. 4/- per tonne they got in coal price. The position was further worsened as the subsidies which the management were getting for Grade II and III coal for adverse mining conditions were also withdrawn by the Government of India from 1st January, 1968 and it was impossible for the management to improve the efficiency further which has already reached its peak. By working under difficult conditions, thin seams, badly disturbed by faults, there was not any scope for any more absorption of extra cost. Further, their production of coal in all these mines is more than 80 per cent of Grade II and III and under such circumstances, the management cannot pay Dearness Allowance more than 0.78P per day per worker, which they have been paying so far.

Among the discussions over the dispute are included the one in Nagpur towards the end of September, 1967 between the M. P. and Vidarbha Mining Association of which the Chairman was the then Chief Mining Engineer of M/s Shaw Wallace & Co. Ltd. and conciliation proceedings before the Regional Labour Commissioner (C), Jabalpur in the month of June, 1968.

At Nagpur, a decision in writing to pay V.D.A. at the rate of 0.78P per day per worker was arrived at with some additional oral commitment with regard to payment of arrears of Award from 15th August to 11 November, 1967 as the Award was implemented from 12th November, 1967, at a later fixed period, but there is no satisfactory solution of the issue regarding the increased payment of Variable Dearness Allowance later in spite of a strike by the union on 17th June, 1968. The discussion continued and at present the position stands as follows:—

Terms of Settlement

(1) It was agreed upon by both the parties that Dearness Allowance at the rate of Rs. 0.78P per day per worker shall be continued to be paid by the management of the above companies till the date of publication of Award.

(2) The demands for enhanced payment of Variable Dearness Allowance from 1st November, 1968 as per the recommendations of the Wage Board shall be determined by the Arbitrator irrespective of the Variable Dearness Allowance figure to be recommended having to be higher than the one recommended by the Wage Board for that period and though higher than as required by the Cost of Living index.

(3) The dispute relating to the issue of Variable Dearness Allowance shall be jointly referred by both the parties for arbitration under Section 10A of the Industrial Disputes Act, 1947. The Award of the Arbitrator will be operative from 1st November, 1968 and the managements shall pay Variable Dearness Allowance to their employees at the rate as fixed by the Arbitrator for the period from 1st November, 1968 onward. The period of operation of the Award shall be for one year from the date the Award is published in the Government of India Gazette. This period of operation of the Award may be extended by mutual negotiations and settlement among both the parties. The terms of reference to the Arbitrator for Award will be as under:—

“Whether the managements of the Pench Valley Coal Co. Ltd. and the Amalgamated Coalfields Ltd. are capable of paying Variable Dearness Allowance at a rate more than 0.78P per day per worker with effect from 1st November, 1968 within the amount of increase of Rs. 4/- per tonne in the price of coal allowed to them for purposes of implementation of the recommendations of the Wage Board as accepted by the Government.”

(4) Both the parties will agree to select as Arbitrators:—

(i) Shri P. C. Mathews, Secretary to the Government of India, Ministry of Labour & Employment.

or in case he is unable to accept it

(ii) Shri S. M. Dikhalé, Ex. Regional Labour Commissioner, Government of India, after having obtained their consent in writing. Both the parties will send the Arbitration Agreement in Form 'C' as given in Rule 7 of the Industrial Disputes (Central) Rules, 1957.

(5) The Arbitrator will be requested by both the parties to give his Award within a period of six weeks from the time the reference is made under Section 10A of the Industrial Disputes Act.

(6) Whereas the above issues has now been amicably settled between the parties on the above terms, this agreement entered into by the union on behalf of the workmen shall be binding on all the workmen. The parties shall get this agreement registered with the office of the Conciliation Machinery of Government of India as per the provisions of the Industrial Disputes Act.

Representing Workmen.

- (1) Sd./- DR. (MRS.) SEETA PARMANAND
- (2) Sd/- V. N. DUTTA
- (3) Sd/- BALDEO PRASHAD SHARMA

Representing Employers

- (1) Sd./- ASA SINGH
- (2) Sd/- V. M. THAKRANEY

Witness

- (1) Sd./- N. B. CHAUDHARY
- (2) Sd/- G. C. BHATTACHARYA

Dated 16th October, 1968.

[No. 8/104/68-LRII.]

New Delhi, the 28th December, 1968

S.O. 63.—Whereas an industrial dispute exists between the employers in relation to the Bhanora Colliery of Messrs Equitable Coal Company Limited and their workmen represented by the Colliery Mazdoor Congress (HMS), Bengal Hotel, Asansol:

And whereas the said employers and their workmen have by a written agreement, in pursuance of the provisions of sub-section (1) of section 10A of the Industrial Disputes Act, 1947 (14 of 1947), referred the said dispute to arbitration by the person specified therein, and a copy of the said arbitration agreement has been forwarded to the Central Government;

Now, therefore, in pursuance of the provisions of sub-section (3) of section 10A of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the said arbitration agreement which was received by it on the 10th December, 1968.

AGREEMENT

Under Section 10A of the Industrial disputes Act, 1947

BETWEEN

NAME OF PARTIES.

Representing employers.—Shri S. Banerjee, Labour Officer, M/s. Equitable Coal Co. Ltd., P.O. Dishergarh, Burdwan.

Representing workmen.—Shri Joyanta Podder, Joint Secretary, Colliery Mazdoor Congress (HMS), Bengal Hotel, Asansol.

It is hereby agreed between the parties to refer the following industrial dispute to the arbitration of Shri R. B. Mazumdar, Assistant Labour Commissioner (C), Asansol.

(i) *Specific matters in dispute.*

"Whether the dismissal of Shri Brihaspat, Wagon loader by the management of Bhanora Colliery was justified? If not, to what relief is the workman is entitled?"

(ii) Details of the parties to the dispute including the name and address of the establishment or undertaking involved.—Employers in relation to Bhanora Colliery, owned by M/s. Equitable Coal Co. Ltd., P.O. Dishergarh, Dist. Burdwan.

(iii) Name of the union, if any, representing the workmen in question.—Colliery Mazdoor Congress (HMS), Bengal Hotel, P.O. Asansol, Dist. Burdwan.

(iv) Total number of workmen employed in the undertaking affected.—1600.

(v) Estimated number of workmen affected or likely to be affected by the dispute.—
1 (One).

We further agree that the decision of the arbitrator shall be binding on us.

The arbitrator shall make his award within a period of six months or within such further time as is entered by mutual agreement between us in writing. In case the award is not made within the period aforementioned, the reference to arbitration shall stand automatically cancelled and we shall be free to negotiate for fresh arbitration.

Signature of the parties.

Witnesses :

1. S. C. BONIK.

2. R. B. SINGH.

(Sd.) Illegible.

Representing employers.

(Sd.) Illegible.

Representing workmen.

[No. 6/122/68-LRI.]

BALWANT SINGH, Under Secy.

(Department of Labour and Employment)

New Delhi, the 24th December 1968

S.O. 64.—In exercise of the powers conferred by section 73 F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government, having regard to the location of the Hydro-Electric Power House, Rampur, belonging to the Uttar Pradesh State Electricity Board, hereby exempts the said Power House from the payment of the employer's special contribution leviable under Chapter VA of the said Act for a period of one year upto and inclusive of the 31st October, 1969.

[No. F. 6(96)/68-HI.]

DALIT SINGH, Under Secy.

(Department of Rehabilitation)

(Office of the Chief Settlement Commissioner)

New Delhi, the 23rd December 1968

S.O. 65.—In exercise of the powers conferred by Section 5 of the Administration of Evacuee Property Act, 1950 (31 of 1950) the Central Government hereby appoints Shri V. P. Sud, Joint Secretary in the Ministry of Labour, Employment and Rehabilitation (Department of Rehabilitation) as Custodian General of Evacuee Property in India for the purpose, of discharging the duties imposed upon the Custodian General by or under the said Act with effect from the 23rd December, 1968.

[No. 5(9)Admn. II/68.]

S.O. 66.—In exercise of the powers conferred by sub-section (i) of section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri D. N. Asija in the office of the Chief Settlement Commissioner as Assistant Settlement Commissioner for the purpose of performing the functions assigned to such officers by or under the said Act, with effect from the forenoon of 28th October, 1968.

[No. 5(8)Admn. II/68.]

S.O. 67.—In exercise of the powers conferred by Sub-Section (i) of Sub-Section 3 of the Displaced Persons (Claims) Supplementary Act, 1954 (No. 12 of 1954), the Central Government hereby appoints Shri V. P. Sud, Joint Secretary in the Ministry of Labour, Employment and Rehabilitation (Department of Rehabilitation) as Chief Settlement Commissioner for the purpose of performing the functions assigned to such Chief Settlement Commissioner by or under the said Act with effect from the 23rd December, 1968.

[No. 5(9)/Admn. II/68.]

S.O. 68.—In exercise of the powers conferred by Sub-Section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) the Central Government hereby appoints Shri V. P. Sud, Joint Secretary in the Ministry of Labour, Employment and Rehabilitation (Department of Rehabilitation) as Chief Settlement Commissioner for the purpose of performing the functions assigned to such Chief Settlement Commissioner by or under the said Act with effect from 23rd December, 1968.

[No. 5(9)/Admn. II/68.]

A. G. VASWANI, Under Secy